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TIMELINESS AND QUALITY IN THE VA DEPARTMENT OF VETERANS' BENEFITS

HEARING

BEFORE THE

SUBCOMMITTEE ON

COMPENSATION, PENSION AND INSURANCE

OF THE

COMMITTEE ON VETERANS' AFFAIRS

HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

FIRST SESSION

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TIMELINESS AND QUALITY IN THE VA DEPARTMENT OF VETERANS' BENEFITS

Thursday, May 7, 1987

House of Representatives,
Subcommittee on Compensation, Pension and Insurance,
Committee on Veterans' Affairs,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:04 a.m., in room 334, Cannon House Office Building, Hon. Douglas Applegate (chairman of the subcommittee) presiding.

Present: Representatives Applegate, Evans, Penny, Johnson, McEwen, Smith of New Jersey, and Bilirakis.

OPENING STATEMENT OF CHAIRMAN APPLEGATE

Mr. Applegate. Good morning.

We are here this morning to receive testimony from a number of witnesses regarding the timeliness and quality of processing claims for compensation and pension in the regional offices of the Veterans' Administration's Department of Veterans Benefits, the DVB.

As I indicated earlier this year during the committee's budget proceedings, I am very concerned that, due to recurring cutbacks in staffing levels, the VA's adjudication divisions are falling behind in meeting timeliness standards. More importantly, I am concerned that this may also be impacting on the VA's ability to maintain a high level of quality in its adjudication of veterans' claims for benefits.

I have asked the service organizations to let us know what they and their people stationed in the field think about the current performance of the adjudication activity, both favorable and unfavorable.

I have also invited four adjudication officers, representing the VA regional offices in Cleveland, St. Petersburg, St. Louis, and Atlanta, who will give us their personal views on the various issues from a local perspective. We will also be hearing from Mr. Donald Abrams, an employee of the Compensation and Pension Service, regarding his personal views on due process within the Veterans' Administration.

Finally, I have asked the Veterans' Administration to discuss its plans for coping with these problems, with particular emphasis in the area of due process to VA claimants, and to describe for us its quality control procedures, including its follow-up efforts and training activities, to assure that identified weaknesses are corrected.

I want to mention that we want to stay within the subject of the hearing, which is timeliness and quality. What we don't want to do is to get into any VA bashing. Yet we want some questions answered. There are some tough questions to be answered. We know there are some problems. I think this is the arena to gain those answers.

I am looking forward to hearing from all the witnesses, and I want to thank all of you for appearing. But before we begin, I want to recognize the distinguished vice chairman of the subcommittee, the Honorable Bob McEwen from Ohio.

OPENING STATEMENT OF HON. BOB MC EWEN

Mr. McEwen. Thank you, Mr. Chairman.

This morning's hearing goes right to the heart of the Veterans' Administration service to those men and women who have already served their country in uniform. When America called upon our veterans to give their best, they did; now we owe them our best by providing them their earned benefits. Therefore, I commend you, Mr. Chairman, for calling the hearing. The VA must be prompt, efficient, and fair in providing benefits to veterans.

These are not mere platitudes. The fact is that America cares for its veterans better than any other country on the face of the earth. It is our responsibility to make sure that this fact remains true.

Our hearing today follows extensive hearings on judicial review from the last session, and a recent hearing on discovery problems with the VA in the so-called *NARS* litigation. I would hope that we can keep a sharp focus on our subject, which is the timeliness and quality of claims processing.

The witness statements filed in advance of the hearing this morning contain at least one common thread—inadequate staffing in many regional offices which results in unacceptably slow claims processing and a belief that there is a declining quality in the adjudication process. These problems must be addressed. We are here to find out more about them and to arrive at proposed solutions and remedies.

Thank you, Mr. Chairman.

Mr. Chairman, I would ask that the statement by the ranking member of the full committee be submitted in the record at this point.

Mr. Applegate. Without objection.

[The prepared statement of Hon. Gerald Solomon appears at p. 61.]

Mr. Applegate. We have with us, too, one of our newer members, Mr. Tim Johnson of South Dakota. Mr. Johnson, do you have any opening comments that you would like to make?

OPENING STATEMENT OF HON. TIM JOHNSON

Mr. Johnson. Only, Mr. Chairman, that I, too, appreciate your willingness to call this hearing on a critical issue affecting all veterans in this country having to do with the timeliness and the due process issues. I think these are critical issues that bear on the quality of services and on the quality of our response to our commitment to veterans.

I think you are to be congratulated for holding this hearing. I am looking forward to listening to and reviewing the testimony of the very able witnesses that have been called to this hearing.

Mr. **Applegate**. Thank you very much.

Mr. Smith of New Hampshire.

Mr. **Smith of New Hampshire**. Thank you, Mr. Chairman. Again, I would just commend you for holding this hearing and I look forward to hearing the testimony. Thank you.

Mr. **Applegate**. Thank you very much.

I would say that the AMVETS has advised us of a problem with their prepared statement and they have requested permission to furnish a formal statement for the record. Without objection, we will hold the hearing record open for a period of 10 days for this purpose.

Mr. **Applegate**. Our first panel consists of the Disabled American Veterans and the Vietnam Veterans of America. With the VVA is Mr. Mike Leaveck and Mr. David Addlestone. Mike is the legislative director for the VAA and Mr. Addlestone is the legal service director for the VAA. And Mr. Dick Schultz, national associate legislative director of the DAV. He will be accompanied by Mr. Jess Brown.

Mr. Leaveck, you're in the center, so we will let you start off.

STATEMENTS OF MICHAEL R. LEAVECK, LEGISLATIVE DIRECTOR, VIETNAM VETERANS OF AMERICA, ACCOMPANIED BY DAVID ADDLESTONE, LEGAL SERVICES DIRECTOR, AND RICHARD E. O'DELL, NATIONAL TREASURER, VIETNAM VETERANS OF AMERICA; EARL CARREL AND REGGIE NEDEAU, MEMBERS; VIETNAM VETERANS OF AMERICA; RICHARD F. SCHULTZ, ASSOCIATE NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS; ACCOMPANIED BY JESS BROWN

STATEMENT OF MICHAEL R. LEAVECK

Mr. **Leaveck**. Good morning. Thank you, Mr. Applegate.

Mr. Chairman, Mr. McEwen, and other members of the committee, on behalf of VVA I would like to extend our appreciation for the opportunity to be here today.

The Vietnam Veterans of America has been, for quite some time, on a course of advocacy for fundamental change in the way the VA does business with American veterans. We do believe there has been a fundamental failure in quality of decisionmaking and due process within the veterans benefits claims processing system. We were as shocked and amazed as anyone in this room at the detailed documentation of these facts which has been floating to the surface in the *NARS* case. These *NARS* discovery documents have already been examined by the full committee and will be considered fully as background in the GAO investigations which are now underway.

In examining the issues of failure in quality and fundamental lack of due process, we believe that no better example exists, particularly of due process violations, than in the recent treatment of neuropsychiatric disability compensation cases in Puerto Rico and the Virgin Islands. We have dealt with this issue fully in the body of our testimony and have appended a copy of the class action lawsuit which VVA filed in that territory on Tuesday.

In this situation, there can be little doubt that the VA used its discretionary power in a concerted effort to systematically reduce compensation paid to veterans suffering from long-standing catastrophic emotional disabilities. VVA's suit contends that the wholesale re-evaluations conducted on psychologically disabled veterans represents a fundamental violation of equal protection provisions of the U.S. Constitution and the due process rights of these veterans.

The primary focus of this hearing is on the impact of budget cuts on timeliness and quality of VA decisionmaking. It seems obvious to us that budget cuts are directly related to a decline in timeliness and quality. The solution seems equally obvious. In any other agency, when budgets are cut and benefit systems are affected, the courts are available to force a resolution. In the case of the Veterans' Administration, that option is not available.

Mr. Chairman, at this time I would like to yield my time to two individuals who can speak with more authority to the issues of quality and due process and VA claims decisions, Mr. Reggie Reggie Nedeau, a VVA member who spent over 4 years as a national service officer for the Disabled American Veterans, and Mr. Earl Carrell, who spent 12½ years with the Veterans' Administration, part of his time being spent at the VA Central Office and at three regional offices. Also, Mr. David Addlestone, director of our legal services, is available for any questions you might have on our service programs, and Mr. Rick O'Dell is in the back also available to discuss Puerto Rico.

[The prepared statement of Michael R. Leaveck appears at p. 63.]

STATEMENT OF EARL CARREL

Mr. CARREL: Thank you, Mr. Leaveck.

Mr. Chairman and members of the committee, I have read some of the material which has been submitted to the subcommittee, and the allegations that have been set forth concerning quality, timeliness and due process by former and present VA employees such as Ronald Abrams are essentially valid and supportable. I say this based on my 12½ years of service with the agency in Central Office and three regional offices.

The problems and concerns, however, go much deeper than appears on the surface. This is because there is no consistency as to the development rating and adjudication of claims from one office to another. The general guidelines set forth by the Central Office staff are just that; they are guidelines. The interpretations are left to the discretion of 58 adjudication officers, 58 regional directors, and hundreds of adjudicators throughout the country. These guidelines are not and cannot be enforced, given the current attitude and structure of the agency and the Compensation and Pension Service.

There are many good and dedicated employees throughout the system who are doing the best job they can, given the circumstances under which they work. Unfortunately, these circumstances do not allow for proper emphasis on quality and due process considerations which are absolutely necessary. Thank you.

I now turn it over to Mr. Nedeau.

STATEMENT OF REGGIE NEDEAU

Mr. NEDEAU. Thank you. My name is Reggie Nedeau. I would like to thank the Chairman and the members of the subcommittee for this opportunity to appear before you today relative to the issues of processing and timeliness of Veterans' Administration claims.

I speak to you as a former national service officer at the Los Angles Veterans' Administration regoinal office and Albuquerque, NM. I have first-hand experience relative to these issues, and I am not going to get involved explicitly in depth concerning that, but I remain open to questions.

At the outset I would like to state that it appears superficially that the Veterans' Administration rating boards adjudicate fairly and correctly, for the most part, the obvious disability claims. However, when it comes to the issue of more complex claims, such as radiation exposure, post traumatic stress disorders and such issues as these, the capabilities based on training and education appear to be somewhat diminished as far as the rating board members are concerned. Therefore, essentially the veteran is denied due process, timeliness and quality.

The red light is on, and I'm emotional. I thank you for this opportunity and I remain open for questions.

Mr. APPLEGATE. If you want to take a few more minutes, go right ahead.

Mr. NEDEAU. Thank you.

It certainly seems fair and reasonable to assume the present system of production quotas and standards often have, and will continue, to adversely affect critical and proper development in adjudication of veterans claims.

Again, I remain open for questions from the panel members and I think you for the opportunity to come from the great State of California here.

Mr. APPLEGATE. I thank you for your statements.

We next have Mr. Dick Schultz, with Mr. Jess Brown.

STATEMENT OF RICHARD F. SCHULTZ

Mr. SCHULTZ. Thank you, Mr. Chairman, and members of the subcommittee.

On behalf of the more than 1 million members of the Disabled American Veterans, I am pleased to appear here today to present our views on the subject of timeliness and quality of processing claims for compensation and pension in Veterans' Administration regional offices.

At the outset, Mr. Chairman, I wish to commend you and the members of the subcommittee for holding this oversight hearng. Clearly, this reflects the sincere interest and concern of the subcommittee for the manner in which our Government provides compensation and pension benefits to our Nation's disabled veterans, their dependents and survivors.

Mr. Chairman, in order to provide service to our Nation's veteran population, the DAV employs some 246 full-time, professionally-trained national service officers, located in 67 regional offices throughout the country, and we also maintain a national appeals staff here in Washington, D.C.

In order to determine how well the VA is living up to its commitment to our veterans, we solicited the views of 20 of our national service officers. Our NSOs report that there are a number of concerns which they believe affect both the quality and timeliness of VA compensation and pension determinations. With your indulgence, I would like to discuss some of these issues.

Initially, I would note that since 1979 the VA's Department of Veterans' Benefits has experienced a 30 percent reduction in staffing at VA regional offices nationwide. This, we feel, must be corrected in order to relieve unrealistic workload demands placed on VA employees. Our NSOs also report that veterans compensation claims are being unduly delayed, some times as much as a year, awaiting the receipt of service medical records. I might also add at this time that we are aware that action has been taken by the VA and the records centers to try and alleviate this problem.

Another area of concern among DAV NSOs relates to the length of time it takes to receive inpatient and outpatient reports from the VA's own medical centers. This problem is not new and possibly one solution to this timeliness problem might be the establishment of a system whereby the Veterans' Administration regional offices and medical centers can communicate by their computer systems.

In reference to end products, I might say that essentially this is a process by which the VA measures the length of time it takes to process and claim, and also it acts as a diary system. VA regional offices have reported that it takes anywhere from 100 to 180 days to process an original claim, and anywhere from 60 to 100 days to complete a reopened claim.

Mr. Chairman, in an effort to determine the accuracy of these statistics, one of our national service offices randomly reviewed 14 of their claims from the previous month for increased compensation. When an examination was conducted in these reopened claims, the length of time was fully 83 days longer than what that regional office had indicated. While we are not questioning the VA's statistics, we only wish to demonstrate here that when you consider only averages, this distorts the actual length of time it takes to process VA reopened compensation claims.

Mr. Chairman, the Board of Veterans' Appeals statistics also reveal that veterans are disagreeing with VA decisions in increasing numbers. Workload data shows that appeals received in fiscal year 1986 is nearly 22 percent higher than fiscal year 1979, and the response time has more than doubled in submitting these appeals from regional offices to the Board of Veterans' Appeals. I might note here this has happened during a period of time when the VA has lost nearly 30 percent of their DVB employees. We must point out that the emphasis on end products is a major reason, also, for these statistics.

Productivity standards, Mr. Chairman, are also of concern to the DAV. We feel these productivity standards place an undue hardship or undue pressures on rating board personnel to produce more and more end products. We also note that it may be subject to some misuse by rating board personnel in this regard.

As an example of the pressures of productivity standards and end products. I wish to relate that one of our national service officers reported to me that, in a conversation with a rating board, where he had taken a case back to the board, the board—he had taken the case back for reconsideration—and the board indicated they would like to reconsider the claim; however, they needed to put the end product in first, and if he had additional evidence, they could go ahead and appeal that decision. Of course, this also adds much time to the appeals process.

In closing, Mr. Chairman, I might say that, in our opinion, the problems facing the VA in timeliness and quality are caused by the decreasing staffing in the Department of Veterans' Benefits office, and we believe the time has come to return the emphasis back to quality and away from the timeliness issue and require the system to serve our Nation's veterans and not the system.

Thank you.

[The prepared statement of Richard F. Schultz appears at p. 89.]

Mr. APPLEGATE. Thank you very much, Rick. I appreciate that.

Was there anything, Mr. Brown, that you would like to add to this?

Mr. BROWN. No. I don't have a prepared statement. I am available for any questions the subcommittee may have.

Mr. APPLEGATE. Okay. I thank you very much.

I have just a couple of things here I wanted to ask the VVA. I'm just sort of curious. In looking over your statement on page 1, you talk about the fact you have been at the forefront in calling the attention of Congress to abuses by the VA in court procedures, et cetera. Then you say you have paid a price.

Could you elaborate a little bit on that?

Mr. ADDLESTONE. An example is we were served with an overbroad subpena—

Mr. APPLEGATE. Excuse me. Would you please identify yourself?

Mr. ADDLESTONE. David Addlestone, legal services director, VVA

Mr. APPLEGATE. Thank you.

Mr. ADDLESTONE. Two days ago we were served with a rather overbroad subpena as a third party witness in the *NARS* case. The discovery process has been ongoing for a year and we were just served with a subpena, which is an obvious attempt to quell our advocacy. It requests, among other things, any notes or communications we've had with Members of Congress or their staff concerning many veterans benefit issues.

Mr. APPLEGATE. Could I ask you who you received the subpena from?

Mr. ADDLESTONE. The Department of Justice. I am quite certain the Veterans' Administration is aware of it, however.

Mr. APPLEGATE. That is what you are referring to, where "we have paid a price for", are vocal criticisms of VA procedures?

Mr. LEAVECK. That's correct. Mr. Applegate, we were somewhat prepared to respond to certain issues in the *NARS* case, seeing that—for instance, the Vietnam Veterans of America does employ the services of attorneys, and that is an issue in the case. But the subpena that was delivered on us would take literally years, with the trucking in of hundreds of individuals from VVA from across the country, to even begin to comply with the subpena. You know, it's rather a transparent effort to try to tie us down. We're firmly convinced of that opinion.

Mr. APPLEGATE. You think it's more of a harassment thing than just a normal legal procedure?

Mr. LEAVECK. We have had a number of opinions from outside counsel to that effect as well.

Mr. APPLEGATE. Looking on page 4, and again on page 5, on page 4 you refer to an individual case about the Vietnam combat veteran who was a Spanish-speaking veteran, and because of his inability to be able to communicate in combat zones with his fellow soldiers, he developed a form of schizophrenia, and that he was allocated or approved for 100 percent total compensation.

Mr. LEAVECK. I would defer that question to Mr. O'Dell, who has actually been down to Puerto Rico.

Mr. APPLEGATE. Okay. The reason I'm asking for that is I would like to see the case on that, if that could be made available to me.

Mr. O'DELL. Yes, we could do that.

Mr. APPLEGATE. Good.

Do you have something other that you would like to add to that?

Mr. O'DELL. No. I did speak with the veteran in Puerto Rico about 5 weeks ago. You know, it is very obvious in his service medical records that the man had this reaction in combat. It was directly related to his inability to communicate due to the language problem. The man has been service-connected since the day he left service. He was rated incompetent, a complete pattern of no improvement in his schizophrenic reaction or in his schizophrenia over the years. It was just basically arbitrarily brought in for reexamination and reduced.

There was a translation error actually in the case. It's a clear and unmistakable error that would have caused him not to be reduced. He was still reduced anyway, and the case is still pending transcription and awaiting appeal.

Mr. APPLEGATE. What I would like to have, if you could, in reference to your testimony, is the names and case numbers to any of the examples you were referring to.

Mr. LEAVECK. Mr. Applegate, we believe those cases are identified in the complaint, which is attached to our testimony.

Mr. APPLEGATE. Could you make them available to us?

Mr. LEAVECK. I certainly would.

Mr. APPLEGATE. I look at this one and it seems to me, concerning the veteran who was reduced, you say through a negotiated settlement—I'm not sure what that means. But it was as a result of a VA rating error. There wasn't any involvement on the veteran's part, so there was no fraud, and that he had more than 20 years of service. And yet, according to local VA officials, there was supposedly a "negotiated" settlement. But there was a reduction from 100 to 50 percent.

If that is true, then I specifically want to see that. Because if that is true, they cannot, unless there is fraud involved, they cannot reduce that allotment. You know, if that is the case, I would like to see that because there needs to be something done to correct that.

Mr. O'DELL. Mr. Applegate, I do not have that case. That case you would have to get from the regional office in San Juan.

Now, that particular story, when I met with the people in San Juan, along with several other members of our staff, in late March, we questioned the fairness of this entire NP re-examination. This was the case that was used by the adjudication staff down there as their example of fairness in its review. It is a clear and unmistakable violation of the law, to negotiate any type of compensation, any type of settlement, dealing with veterans compensation.

They basically went to this veteran and said "We will agree to reduce your benefit to 50 percent instead of severing it." In fact, they could not severe it because they could not prove fraud on the part of the veteran. It is a clear breach of the veteran's rights.

I would point out to you again that this is the case that they used to communicate to me their sense of fairness. If that is their case example of fairness, I am extremely concerned about the other 4,200 veterans who were reviewed.

Mr. APPLEGATE. Well, I'm not sure about all of the others, but you point this out specifically—and I would agree with you. I would like to know who this is because I would personally like to do what I can to help this particular veteran.

Mr. O'DELL. I do not know the name. I would suggest that you probably direct your inquiries as to exactly who the veteran is to the VA.

Mr. APPLEGATE. Okay.

Mr. LEAVECK. We will do what we can, Mr. Applegate, to ensure that the name and case number is communicated to you.

Mr. APPLEGATE. I would appreciate that because, when you refer to these cases, it is always good that you have those names and those cases available to us so that we can look at them. This, to me, would be a flagrant violation of a veteran's rights. I agree with you.

Mr. APPLEGATE. I have a question here for you, Mr. Leaveck. Do you have an opinion as to whether you think there are enough adjudication employees in the regional offices to do the job the way you would like to have it done?

Mr. LEAVECK. Although we would concede and echo the comments of the DAV, that because of the budget cuts, because of the cut in personnel in DVB, that timeliness and quality have suffered. But we believe there are systemic problems that go beyond merely problems created by budget cuts and personnel cuts.

Again, to reflect back on our opening statement, we believe that the availability of court review would go a long way to mitigate the effects of budget cuts.

Mr. APPLEGATE. What you're saying is you think it's policy rather than personnel?

Mr. LEAVECK. To a large extent, that's correct.

Mr. APPLEGATE. But do you think there's an adequate number of personnel?

Mr. LEAVECK. No.

Perhaps Mr. Carrel would have something to add to that.

Mr. APPLEGATE. Sure.

Mr. CARREL. Thank you.

Mr. Chairman, members of the committee, I worked in the Buffalo, NY regional office, the Manchester, NH regional office—in fact, I still live in Mr. Smith's district—here in the Central Office in Washington, and the VA regional office in Boston.

Although there are significant staffing problems throughout the agency, they, too, vary from regional office to regional office. Some offices are adequately staffed; some offices are probably, in certain areas, a little on the fat side, although there's not an awful lot to cut anywhere, even in those offices that are well-staffed, that some offices are adequate. But more important than that is the training that the adjudicators and the rating boards and the claims development clerks receive.

I notice Mr. Peckarsky sitting behind us. Back in the early to mid-Seventies he came out with a training program called "Venture in Progress". At the time, if memory serves me correctly—and I'm sure you will remind me if I'm not correct, Mr. Peckarsky—you said something on the order of it's questionable when people say "Do you have the time to train your people because of your workload?" His response was, "We don't have the time not to train them. We have to train them."

Unfortunately, that program didn't go far enough, because it was sent out to the 58 regional offices around the country with "here it is, guys, here's the training program; go do your own thing." Some offices trained very well; some offices did not train well. There is a direct correlation, I feel, between the timeliness of claims processing and the quality of claims processing and the training that has been given to the VA employees.

There is, to the best of my knowledge—and I will admit, I have been away from the agency now since December of 1985, when I left to go into private law practice. At the time there was no uniform system of training throughout the agency. From time to time, rating specialists would be called in to various sections of the country, given training, and then sent back to the regional offices to train their peers. You're still going to have an awful lot of inconsistency that way.

The training sessions that I participated in, both as an instructor and as a trainee, varied greatly in quality. You got the interpretation, not from the Central Office staff, but sometimes second hand, sometimes third hand. As a direct result of this, quality and timeliness has got to suffer. Staffing is part of it, yes. But if you have reasonable staffing, with well-trained employees, you're going to be able to handle those cases much better than being overstaffed and nobody knows what they're doing.

Mr. Bilirakis. Will the Chairman yield for a moment?

Mr. Applegate. Yes. Mr. Bilirakis.

Mr. Bilirakis. Can you give us an illustration of an inconsistent handling of a particular case as the result of inconsistent training or lack of uniformity?

Mr. Carrel. Again, Mr. Bilirakis, that is somewhat difficult from my standpoint right now. I think, in retrospect, there was a study done by the VA Central Office staff on rating consistency. They sent several cases out, with the same set of facts, the same set of circumstances, merely with the names obliterated, to several regional offices to see how those cases would be rated. I did not participate in this study, but to the best of my knowledge and to the best of my recollection, there were some very substantial variations as to the rating of these cases. I think that members of the Central Office staff could probably provide documentation as to that study.

That was, to the best of my recollection, in 1982, I believe. From what I understand, things haven't really changed that much.

Mr. **Leaveck**. Mr. Bilirakis, I think Mr. O'Dell could add a little bit to that in terms of his survey on some data on PTSD claims from regional office to regional office.

Mr. **O'Dell**. This past February I did a survey of the 55 State directors of veterans affairs, in which I limited it pretty much to the problems that deal with TARGET. Part of the results of that survey are in our testimony, in our lengthy testimony.

But what we found was that there is a great inconsistency across the country. VA's own statistics that we recently looked at, that dealt from, I believe, June of 1985 through February of 1987, just in PTSD claims alone, showed a varying rate of success in those claims ranging from 88 to 25 percent. What is unique about the inconsistency is that the State in which you are most likely to get a PTSD granted is right next to the State that you're least likely to get a PTSD claim granted.

Mr. **Bilirakis**. And you attribute this to inconsistent or nonuniform type training?

I do. It would seem reasonable to me. I am certainly not a statistician, but there should be some consistency and some norm. There should not be a 63 percent difference across the country.

Mr. **Bilirakis**. Thank you, sir.

Thank you, Mr. Chairman.

Mr. **Applegate**. Just one more question for Mr. Schultz.

You mentioned that a solution to the timeliness problem might be to establish a system of—well, whereby the VA regional offices and medical centers can communicate by way of the computer system. To your knowledge, has the VA taken any action to implement that?

Mr. **Schultz**. Mr. Chairman, to my knowledge, they haven't. I am aware that there are some discussions where they are trying to hook up their systems. As far as I can tell, that is somewhere down the road. But at the present time we don't see where that's being done.

Mr. **Applegate**. Okay. Thank you very much.

Mr. McEwen?

Mr. **McEwen**. I have no questions, Mr. Chairman.

Mr. **Applegate**. Mr. Evans.

Mr. **Evans**. Thank you, Mr. Chairman.

I missed the opportunity to make some opening remarks and I would like to do that, and make a comment about another matter that was raised in your questioning. Then, if I have time, I will ask some questions.

I do want to thank you, Mr. Chairman, for calling this important hearing on quality, timeliness and due process problems at the Veterans' Administration.

At the March 17 joint hearing there was so much to investigate, with questions concerning the VA's handling of the *NARS* discovery process and employment harassment, that the issue most important to America's veterans, the qualify of VA adjudications, did not receive the intense scrutiny needed. Today, thanks to you, Mr.

Chairman, we will have that opportunity to fully investigate those issues, which we only had an opportunity to glimpse at in March.

I would also like to thank you, Mr. Chairman, for asking Mr. Ronald Abrams of the Veterans' Administration to be here today. In his testimony in March, Mr. Abrams demonstrated his in-depth knowledge of VA due process issues and his willingness to testify with great candor. I believe that his testimony will be critical at this hearing and I praise him, as I did in March, for agreeing to appear, despite it obviously being against his own self-interest.

I am also pleased that we will be hearing from the veterans organizations here today. As the representatives for most veterans at the VA, and the ones who must deal with the agecny on a day-to-day basis, the VVA, the DAV, the American Legion, the VFW and PVA can provide insight from the front lines on the problems at the VA.

I would also like to praise the organizations today for not just confining their testimony to hand-ringing over the current sorry state of affairs. It is vital that we explore why problems identified exist and what must be done to remedy the situation.

While there is no question that budget cuts at the VA have been very damaging, it is clear to me that the problems have really existed for many years. This was evidenced in the March 17 hearing and it is shown empphatically by the VA Inspector General report issued in 1982, which found an error rate exceeding 19 percent. Thus, while restoring the budget may be part of the answer, I think we have to make sure we do not let that divert us from the need for fundamental reform at the Veterans' Administration.

I again want to thank the veterans organizations, Mr. Abrams, and you, Mr. Chairman, for letting us look into this and exploring it in detail, what the problems are and what steps we should take. But before I ask any questions, I also want to make a comment about the subpena and the VVA in the *NARS* case.

The VVA is not a party to the *NARS* litigation. The VVA does not represent veterans in radiation cases, which is what the *NARS* lawsuit is all about. The VVA's involvement in the *NARS* litigation has been in publicizing the gross abuses in the VA system which have been explored and exposed through the *NARS* suit.

Now, I think there is really no better evidence of what the Government is doing here than in the subpeona's request for virtually all communications between the VVA and Congress. This request includes communications between VVA chapters all over the country and their Congressmen. I want to say personally that in my district I have worked with my VVA chapter. They just started 6 months to a year ago in forming that chapter. I think that this subpena and its implications could have a tremendous chilling effect on communications between members of federally-chartered veterans organizations and Members of Congress. We need to know, I believe, what those members think. That's why I have worked so closely with them. I believe it's an abuse of the separation of powers, the doctrine that has been fundamental in our Government, for the executive branch to harass those who have exercised their constitutional rights to petition Congress. The timing of the subpena is suspicious because it comes after 3 years of litigation, a few months before trial, and only after the VVA has scored some points against the Veterans' Administration.

I didn't think I was going to comment about that today, Mr. Chairman. I know that came up as a result of your questions, so I felt compelled to bring that up.

I again want to thank you for holding the hearings today and I will ask some questions now with the balance of my time.

Mr. Carrel, we have heard that current VA hiring policies have resulted in fewer attorneys acting as adjudicators. Do you think this has affected the quality of decisionmaking at the VA?

Mr. Carrel. Thank you, Mr. Evans.

Yes, I do. I think if we look at the hiring practices within the agency since 1980 or so, you could probably count the number of attorneys that have been hired in the adjudication division without exceeding the normal person's number of fingers and toes. I am sure there are a number of reasons for this. Budget may be one, the attitude of the agency may be another.

In the adjudication process, it has become a matter of it doesn't really matter if you do the cases right or wrong, it doesn't really make much difference if you do them, as long as you generate enough paperwork to justify your existence. Therefore, the adjudicators are put in a position of, as Mr. Schultz said, cranking out the end products—get the case in, get the case out, don't even think about it. Just put the data in.

Attorneys, of course, I think prefer to be able to think about a case, to rationally go through it and find out what the evidence is and work toward a decision at a logical pace. That is not happening because you're under the pressure of move the case, move the case, move the case.

Additionally, yes, budget constraints do have some effect because an attorney, somebody coming right out of law school, is going to demand, require, and need a higher salary than someone who does not have that level of education. So yes, I am sure there is a direct correlation between the lack of attorneys in adjudication and some of the due process problems.

Mr. Evans. Mr. Chairman, I see my time has expired. I have some further questions for the VVA and Mr. Schultz and I would like to submit them in writing, if I may.

Mr. Applegate. Okay. They will be placed in the record and submitted for answers.

Mr. Smith.

Mr. Smith of New Hampshire. Thank you, Mr. Chairman.

In the statement of Mr. Schultz, on page 3, two of the points you make—the inadequacy and over-reliance on pattern letters and the impersonal nature of computer-generated correspondence—are you saying that that's related directly to the lack of staffing, the cutbacks in staff? Is that your opinion?

Mr. Schultz. Well, the VA has always used pattern letters, and having been in the field 11 years before coming here, I had a number of veterans bring those letters to me. A lot of times they're confusing to the veteran and the veteran doesn't clearly understand his rights and just what is taking place.

More recently, the VA has used their TARGET system to kick out some award letters and other things. The complaint there is that they are very impersonal, you know, it's unsigned by human hand, and that the whole system becomes such an impersonal system for them. I believe they need to take a good look at their pattern letters to make them more clear and just to better assist the veteran in understanding what's going on in his claim.

Mr. SMITH OF NEW HAMPSHIRE. As a veteran myself, I would make the point that I couldn't agree with you more.

Mr. Chairman, In my view this point is well taken, whether there be lesser staff members out there or more. I think we have seen too many pattern letters and too much impersonal correspondence. It would seem to me, even when we had greater staff out there, we still were dealing with this same problem. I think they deserve a lot better than that type of correspondence, which we all are subjected to some times. I think it's a very good point.

I just have one other question, Mr. Chairman. Considering the statements made about the staffing reduction and budget cuts and so forth, do any of you feel there is any attempt to somehow—perhaps in the case of the Puerto Rico example that was just mentioned—do you feel there is an attempt by some staff people to make up for those by cutting veterans back in terms of their eligibility? Just an overall general comment. I'm not asking you to be specific, not necessarily specific examples. But where we are faced with cuts in the agencies at times, is there an attempt to make up for that by doing that? Do you sense any of that, anybody?

Mr. SCHULTZ. If I may, I would like to comment just briefly on it.

As you know, there are always those individuals in any system that may be liberal and others that are a little tougher on claims. There are some people in the system sometimes who view themselves as the protector of the Treasury and they alone have to make up for the deficit. But that is why we have an appeals process, and that is why there are cases being appealed.

So I would have to say sometimes, given the times, given the budget deficits and the problems and everything surrounding that, some individuals may feel that they need to tighten up and be less liberal in granting benefits. But again, we feel the major problem is the budget cuts that they have, forcing them to push these claims out and not give them the proper quality. We feel, if you can increase the staffing, a lot of that will go away.

Mr. SMITH OF NEW HAMPSHIRE. It certainly is the perception by some veterans that this is the case.

Mr. SCHULTZ. Sure.

Mr. SMITH OF NEW HAMPSHIRE. I can think of one particular case in my own district, which you may very well be familiar with, Mr. Carrel—I don't know how long it's been since you were in Manchester. But it just seems to me that if a veteran has been on 100 percent disability for 20 years, no medical evidence to the contrary, and suddenly he's reduced to 70 percent, it does open up some real questions.

I have heard individuals in that office refer to budget cuts. To me, budget cuts should not be in that area, especially if a person is 100 percent disabled.

Mr. O'DELL. If I may comment, please, in regard to Puerto Rico, we looked at the VA Inspector General's investigation of the Puerto Rico regional office. They noted a high incidence of ratings across the board, 10 to 100 percent, in neuro-psychiatric conditions. Yet, when it came time to review those claims, the VA coldly, and with premeditation, chose only to review those at 100 percent.

The obvious implication is that if you can reduce a veteran from 100 percent to 70 percent, you reduce net dollar award by 46 percent, in real money. It is egregious that they would go at only the sickest and least able to defend themselves against the system. In fact, if you look at almost a thousand adverse adjudication actions in this NP review in Puerto Rico, there have been 36 appeals. That doesn't mean necessarily that the review was proper and correct. It simply means that they did, in fact, go after the sickest and least able to defend themselves. Of those 36 appeals, 30 of them have been reversed.

I don't understand the rationale, if it is not for cost savings, that they would only go at the 100 percent veterans.

Mr. SMITH OF NEW HAMPSHIRE. It would just seem to me, Mr. Chairman, that if this information is accurate—I don't know how prevalent it is—but if it is out there in some small degree, I think we have a problem which is much more serious than just simply staff reductions. I think it might be something we ought to, if possible, take a look at some time in the future.

Mr. Chairman, I have no further questions.

Did you want to respond, Mr. Carrel?

Mr. CARREL. Just very briefly, Mr. Smith, and Mr. Chairman, if I may.

I would only like to say that, based upon my experience with the agency, I have never seen any deliberate attempt whatsoever, by any Veterans' Administration employee, to say cut somebody's benefits. I spent about 20 years in supervision as a claims supervisor and I would not have tolerated it.

If the veteran is due those benefits, he should be granted them and granted them in full. On the other hand, however, if he is not, then the benefits should be denied or reduced or terminated with proper due process and appeal rights given. But I have never seen any deliberate attempt to go after somebody with the intent of cutting somebody's benefits.

Mr. SMITH OF NEW HAMPSHIRE. I'm glad to hear that, especially if you're talking about Manchester, NH.

Mr. Chairman, I have no further questions. I would like to apologize to the committee and the other witnesses. I do have a committee markup and do have to leave at this time.

Thank you.

Mr. APPLEGATE. Thank you, Mr. Smith.

Mr. Bilirakis.

Mr. BILIRAKIS. Thank you, Mr. Chairman. I would also like to apologize to you and to all of our fellow comrades in the room for my tardiness this morning. We all have other things, and I have three other hearings all going on at the same time right now. I guess that's the story of our lives.

I have a very short opening statement, sir, that I would like to ask unanimous consent be inserted into the record in the intrest of time.

Mr. APPLEGATE. Without objection.

[The prepared statement of Hon. Michael Bilirakis appears at p. 95.]

Mr. **Bilirakis**. I would like to say that we all are looking forward to hearing from Mr. Egan and Mr. Moran and the other gentlemen on panel II. But I know we're also anxiously awaiting the VA to testify. I would like to commend you, Mr. Chairman, for your foresight in moving the VA down on the agenda list, if you will. I think it is a lot more practical because they then will be in a position to basically respond to some of the things they've been hearing. So I think it is a great idea and I commend you for it.

I have nothing further. Thank you, and thank you, gentlemen.

Mr. **Applegate**. Thank you, Mr. Bilirakis.

Mr. Wilson, counsel for the minority, has some questions he would like to ask.

Mr. **Wilson**. Mr. Schultz, comment was made about the subpena that has been issued to the Vietnam Veterans of America. Would you please comment upon the subpena that was also issued to the DAV?

Mr. **Schultz**. I would like to have Mr. Brown comment on that, if I may.

Mr. **Brown**. We can certainly understand how the VVA feels about the subpena that they received. We also received a number of subpenas. We have our attorneys in our office going through thousands and thousands of pieces of information in order to comply with the discovery procedures.

It is an imposition. However, I think it is part of the due process procedure that will allow the courts to come to a decision that is going to be in the best interests of all concerned.

Mr. **Wilson**. Mr. Brown, who subpenaed you?

Mr. **Brown**. We received—It has to do with the *NARS* case.

Mr. **Wilson**. Was it the Justice Department or was it the plaintiff?

Mr. **Brown**. It was the plaintiff.

Mr. **Wilson**. Is it true that it has cost the DAV in excess of $100,000 so far?

Mr. **Brown**. I would say probably much more than $100,000 so far, and we're still working. We anticipate that we will be trying to comply with those discovery procedures up until about June. It's that much work. We have over 40 items in which to comply with.

Mr. **Wilson**. Mr. O'Dell, you mentioned the case in Puerto Rico, of the person who was the subject of a settlement case. Just yesterday I was told by the Veterans' Administration that they cannot identify that case and that they have been in touch with the people in Puerto Rico about it. Could you get back in touch with your people and find out exactly who that person is, because the Veterans' Administration tells us that thus far it has not been able to identify that veteran.

Mr. **O'Dell**. I can only indicate to you that I was in the room with seven other people from VVA and the story was articulated to us by Mr. Martinez, who is the assistant director of the medical center down there.

Mr. **Wilson**. Mr. Martinez is the one that told you that?

Mr. **O'Dell**. Yes.

Mr. **Wilson**. Thank you.

Mr. O'Dell, or other people from VVA, are you familiar with the background of the Puerto Rico investigation that was instituted in part by the chairman of this committee?

Mr. O'DELL. Yes, we are.

Mr. WILSON. Is it not true that the Veterans' Administration statistics indicated that an abnormal number of 100 percent cases existed in Puerto Rico as compared to the 57 other regional offices?

Mr. O'DELL. That is true. I would submit to you, though, that there was no attempt made to try to explain why there was an abnormality. There are a good number of veterans living in Puerto Rico who were not rated in San Juan but who, in fact, were rated in Florida, rated in New York. I asked the VA regional office people in San Juan in March if any attempt had been made to cull those people out of the NP review. They said no, we have no way of identifying.

Those of us who have worked in the system know very well that you simply need to go into the Birls system and pull up the last station of responsibility, jurisdiction, on the veteran's file. It would have been easy to have done.

Mr. WILSON. Is it not true that the Veterans' Administration was so concerned about the quality of examinations that had been given on a number of those cases that the entire psychiatric examination unit of the Veterans' Administration hospital in San Juan was dismissed?

Mr. O'DELL. That is true, and I would also point out to you that the VA's own IG report found no malfeasance on the part of fee-basis physicians or neuropsychiatric staff down there.

Mr. WILSON. Is it not also true that a large number of hospital reports and examination reports in Puerto Rico came from a hospital in Hato Rey, in which there were about 150 contract hospitalization cases, and that those cases were also involved in this review by the Veterans' Admnistration?

Mr. O'DELL. I would also point out to you that the Inspector—

Mr. WILSON. Would you just answer that, please? Is that not true?

Mr. O'DELL. The answer is yes.

Mr. WILSON. Thank you.

With respect to your figures as to the Board of Veterans' Appeals cases, I think you said that 30 cases out of 36 were allowed; is that correct?

Mr. O'DELL. Yes.

Mr. WILSON. Just this morning the Chairman of the Board of Veterans' Appeals told me that in 1986 there was, in fact, an increase in the number of allowances from the territory of Puerto Rico. The nationwide total of allowances is about 15 percent, and in Puerto Rico it was about 22 percent, primarily related to the review that had taken placed down there. He said, however, that this was a total of 18 cases.

Do your figures disagree with that?

Mr. O'DELL. They probably do, but they are VA provided figures, which I will be happy to share with you. They are off the personal computer out of the San Juan regional office.

Mr. WILSON. What period of time do they cover, do you recall?

Mr. O'Dell. They cover through—they are current up through March 27.

Mr. Wilson. I think my time has expired, Mr. Chairman.

Mr. Applegate. Okay. Did you have some other questions you wanted to submit for answers to the panel?

Mr. Wilson. There are just two or three others that I would really like to ask, if I could, at some appropriate time.

Mr. Applegate. Well, go ahead. We have extended the time for others.

Mr. Wilson. In your written testimony there is an indication made that you would like to—at least I think I'm reading it correctly—that you would like to have doctors subpenaed to go before rating boards and give testimony on individual cases. Is that correct?

Mr. Addlestone. That's not what our testimony says. We just provided some VA documents where an attorney attempted to subpena a VA doctor. Basically, what was attempted was a situation where a treating physician had relevant evidence in a case which was apparently contrary to the rating physician's diagnosis. The VA, as the document indicates, was not interested in having both there. However, since it was a private attorney raising the spectre of a subpena, the regional office agreed to have him present.

Mr. Wilson. What is your position with respect to physicians appearing before rating boards, treating physicians and examining physicians coming before rating boards in individual cases?

Mr. Addlestone. I think a rating board should hear all relevant evidence. I have no position in general.

Mr. Wilson. Would you have such a physician cross-examined?

Mr. Addlestone. Pardon me? No, if the treating physician has an opinion as to the person's degree of disability, the rating board should hear the evidence. There would not be any cross-examination, unless the rating board wants to do it.

Mr. Wilson. Mr. Schultz, with the exception of timeliness matters, what are the quality deficiencies that your service oficers have noted throughout the system?

Mr. Schultz. Well, Mr. Wilson, we have noted several other problems throughout the system. We noted the decline in employees, the delays in receiving their records, the impersonal nature of those letters, and also the production standards. We feel this all ties in to the staffing problems—

Mr. Wilson. Mr. Schultz, what I'm primarily asking you concerns the quality of rating decisions, the correctness of rating decisions. Of course, that's the very essence of a service officer's work.

Have you noticed a decline in the quality of those rating decisions over the last 3, 4, 5, 10 years?

Mr. Schultz. Yes. We believe that the quality of those decisions has declined, as is evidenced by the increase in the number of cases going before the Board of Veterans' Appeals.

Mr. Wilson. I think in your testimony you mentioned an increased number of appeals that the DAV has handled, and also an increased number of appeals to the Board of Veterans' Appeals in total. Is that correct?

Mr. Schultz. That's correct.

Mr. WILSON. Has the allowance rate at the Board of Veterans' Appeals changed upward or downward over the last few years?

Mr. SCHULTZ. There has been no dramatic change—you know, maybe a few percentage points. But basically it has remained the same.

Mr. WILSON. Thank you, Mr. Chairman.

Mr. EVANS. Mr. Chairman?

Mr. APPLEGATE. Yes, Mr. Evans.

Mr. EVANS. If I could have a few more minutes regarding this subpena issue, I would like to ask a few more questions, if possible.

Mr. APPLEGATE. Go ahead.

Mr. EVANS. Mr. Brown, didn't the DAV, in fact, file an affidavit in support of the VA in the district court case?

Mr. BROWN. Yes.

Mr. EVANS. So that ensures you would normally be subject to the discovery processes as a result of filing that affidavit, isn't that correct?

Mr. BROWN. Yes, I don't disagree with that. We're talking about the depth of it. It required us to poll all of our offices throughout the country, to go through all of our correspondence, and it really imposed a financial burden on the organization.

Mr. EVANS. Yes, I realize that. When you say offices, you mean your organizational offices?

Mr. BROWN. Our national service offices, yes.

Mr. EVANS. Does that include every chapter and virtually every member of every chapter that you have in the country?

Mr. BROWN. No, it does not.

Mr. EVANS. Mr. Addlestone, could you comment about how broad the subpena to the VVA was compared to perhaps some of the other organizations?

Mr. ADDLESTONE. Yes, Mr. Evans. I think your initial take on this is correct. VVA did not file an affidavit in support of the VA; we are not a party to the case; we are not going to testify as witnesses in the case. We have nothing to do with the case. The other veterans organizations that filed affidavits I am sure were told by their attorneys that they were going to be subjected to the discovery process.

The discovery the other veterans' organizations received was directed at their handling of ionizing radiation cases. The discovery we received is aimed at all of our casework. Basically, a literal reading of it would indicte that all of our members are to be discovered as to any conversations or communications they had with Members of Congress, congressional staff, media, or anybody. This is the most over-broad subpena that I have seen in 20 years in my practice of law. This opinion is echoed by attorneys I have consulted with at some of the large law firms in town. It is an abuse of the legal process and it is perhaps actionable on our behalf.

Mr. EVANS. I thank you. I know it is over-burdensome already as far as DAV is concerned and some of the other organizations. I happen to be a member of the VVA and I have also communicated with Members of Congress. I suppose I'm going to be drug into this process if the subpena is not rebuked by the judge.

It just has a tremendous chilling effect, it seems to me, Mr. Chairman. I am completely outraged that we have this kind of situation going on. I hope we can do whatever we can to support this, because I think the precedent supports having the subpena thrown out because it just seems to me that this could have bad future potential in terms of the support of our veterans organizations here in Congress. So I appreciate your yielding me some extra time on this issue.

Mr. ADDLESTONE. Mr. Chairman, I have prepared a comparison of the two subpenas. If we could submit those for the record, I think it would make it rather clear that there is a distinction here.

Mr. APPLEGATE. Thank you.

Mr. EVANS. Could we have that entered, Mr. Chairman?

Mr. APPLEGATE. Yes, we will have that entered into the record.

Mr. EVANS. Thank you.

[The subpenas appear at p. 96.]

Mr. APPLEGATE. Mr. McEwen.

Mr. MCEWEN. Mr. Addlestone, if I could, just to make sure that I understand this clearly, you're an attorney, right?

Mr. ADDLESTONE. Yes, I am.

Mr. MCEWEN. Which means you're a sworn officer of the court at all times.

You say the VVA has nothing to do with this case?

Mr. ADDLESTONE. That's correct.

Mr. MCEWEN. Okay. Thank you very much.

Mr. APPLEGATE. Since you're there and we're on this subject, let me ask you this. Have you taken any action to limit the scope of the subpena?

Mr. ADDLESTONE. We've retained counsel.

Mr. APPLEGATE. I'm sorry?

Mr. ADDLESTONE. We have retained counsel and we will follow his advice.

Mr. APPLEGATE. Okay. Thank you.

Mr. ADDLESTONE. Mr. McEwen, I also would add some years ago I was consulted, when the case was in its initial stages, and I suggested to the plaintiffs that it was ill-advised litigation and I declined to participate in it because I thought it was a draining of political energy that should be directed to Congress. Little did I know it would take the direction that it took. But I have consistently advised VVA not to be a party to the case.

We filed an amicus brief in the Supreme Court on constitutional issues, however.

Mr. MCEWEN. Mr. Chairman, I'm sure this will come out during the course of the case—that as a sworn officer of the court, your position to a congressional committee being as forthright as it is, I just want to make sure that if you wanted to amend it at all, it would be a good thing to do. Because if there is any involvement of VVA during the course of the trial, it is going to come out. For you to say there is absolutely no involvement of VVA in this case is a clear statement.

Mr. ADDLESTONE. I have spoken with plaintiff's counsel on numerous occasions. I am certain the Justice Department would love to know what we've talked about, and I would be happy to tell them that nothing improper was discussed.

Mr. EVANS. Would the gentleman yield?

Mr. MCEWEN. Yes.

Mr. EVANS. I guess we are speaking in a very legal sense about what involvement in a court case is. I would think that that might differ than in the normal course of talking and discussion between various representatives of veterans organizations, which is the First Amendment right of virtually any American, and not an involvement in a legal proceeding in the normal legal sense. So I just wanted to try to clarify what we're talking about here in the committee.

Mr. MCEWEN. I guess my conclusion would be that if he did file an amicus brief, some people might find it to be a conflict to say he has absolutely nothing to do with this case.

Mr. ADDLESTONE. We think the plaintiffs are correct on the constitutional issues raised by the case, but we are not a party to the case.

Mr. MCEWEN. Your statement was you had absolutely nothing to do with the case, and so—

Mr. ADDLESTONE. We're not a party to the case or counsel in the case. That is what I mean, in a legal sense. As a responsible veterans organization, we are extremely concerned about the reports of what is being discovered in the case and I would be remiss if I did not speak with plaintiff's counsel to find out what is available and what is affecting veterans. As far as being a party to the case, or a possible witness, no. The Justice Department now has made me a witness.

Mr. MCEWEN. I think you're position is much clearer now than it was.

Mr. EVANS. Mr. Brown, have you ever talked to anybody from the National Association of Radiation Survivors in any regard, or Mr. Schultz, or any of your representatives, ever talked to any of the *NARS* representatives about the case, informally, formally, or otherwise?

Mr. SCHULTZ. I have no knowledge that—You know, I personally have not. You know, I have no knowledge of whether or not any of the staff has discussed that. Our attorneys are handling that claim and Mr. Brown may or may not know.

Mr. EVANS. Do you know, Mr. Brown?

Mr. BROWN. No, I haven't.

Mr. EVANS. You're not being asked in your discovery request to compile any such information and disclose it to the Justice Department in that regard, the *NARS* communication between you, your organization, and the *NARS* organization?

Mr. BROWN. I don't recall all of the fine points of the discovery, exactly what is required of us. But I do know that it requires us to review each and every file to look for maybe one piece of information dealing with radiation exposure. So, in that sense, the impact in terms of an imposition is quite similar to VVA.

Mr. EVANS. Thank you.

Thank you, Mr. Chairman.

Mr. APPLEGATE. Mr. Wilson.

Mr. WILSON. Mr. O'Dell, I have just conferred briefly with the people in the back of the room from the Veterans' Administration to clarify some information I received yesterday. I now have a note in front of me from VA officials which says the following: "Talked to the adjudication officer in San Juan, Marita Ramos"—I think that's the name. "She indicated she and Mr. Martinez met with the Vietnam Veterans representatives, including Mr. O'Dell. She stated that no individual cases were discussed at all. She added that the VVA representatives went to the hospital, but she doesn't know what transpired. She's trying to check now."

Your testimony was, I think, Mr. O'Dell, that Mr. Martinez told you about that case, which if the facts are as indicated by the VVA testimony, would be clearly contrary to law.

Is it still your recollection that Mr. Martinez told you about that case but did not give you a name?

Mr. O'DELL. That is correct, and I would also submit that one other individual who was present in that meeting is in the hearing room today. Would you like me to call him forward for vertification?

Mr. WILSON. I just wanted to get your recollection, Mr. O'Dell.

Mr. O'DELL. That is my recollection.

Mr. WILSON. Thank you.

Mr. LEAVECK. Just for clarification, Mr. Chairman, Bart Stichman, who is our litigation director, was present at the meeting in San Juan. I would like to offer his verification, if that would be possible and permissible.

Mr. APPLEGATE. Okay. We will make that a part of the record, too. We want to get that cleared up.

Mr. STICHMAN. Yes. I was in the room at the time that Mr. Martinez discussed that individual case that Mr. O'Dell referred to before, and there were others in the room as well.

Mr. APPLEGATE. There is obviously some conflicting statements and we'll get to the bottom of it.

I would like to recognize Bobby Mueller, who came in during the course of the testimony and the questions. He is president of the VVA. Bobby, it is good to see you.

Last but not least, Mr. Penny of Minnesota. Mr. Penny, do you have anything that you would like to add?

Mr. PENNY. I have no questions of this panel, Mr. Chairman. Thank you.

Mr. APPLEGATE. Okay. Well, gentlemen, I thank you very much. It has been a little bit of a rigorous course. We appreciate the information. It has been very helpful and useful. We are going to move from here and hopefully, from the testimony that you have given, we will be able to provide some improvements to the whole procedure. I thank you very much for being here.

Mr. LEAVECK. Thank you, Mr. Chairman.

The next panel we have is Mr. Paul Egan, deputy director of the National Legislative Commission of the American Legion, and Mr. Phil Wilkerson, assistant director of the National Veterans' Affairs and Rehabilitation Commission of the American Legion; Mr. Gordon Thorson, special assistant, National Legislative Service of the VFW; and Bob Moran of the PVA, accompanied by Mr. Norman "Gabby" Hartnett, the national service director.

Gentlemen, I don't know whether you have flipped the coin as to who wants to proceed first, but go by seniority or however you would like to proceed.

STATEMENTS OF PAUL S. EGAN, DEPUTY DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION, ACCOMPANIED BY: PHILIP R. WILKERSON, ASSISTANT DIRECTOR, NATIONAL VETERANS' AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION; GORDON R. THORSON, SPECIAL ASSISTANT, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS; AND BOB MORAN, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA, ACCOMPANIED BY NORMAN "GABBY" HARTNETT, NATIONAL SERVICE DIRECTOR

STATEMENT OF PAUL S. EGAN

Mr. EGAN. We might as well start, Mr. Chairman. Phil Wilkerson, the assistant director of our National Veterans Affairs and Rehabilitation Commission, will summarize for us, and each of us is prepared to answer any questions that you or any other members of the subcommittee might have.

Mr. WILKERSON. Thank you, Mr. Chairman and members of the subcommittee. We appreciate this opportunity to comment on the operations of the VA's Compensation and Pension Service with respect to the issues of quality and timeliness in its processing of benefit claims.

The American Legion has expressed its concerns to the committees of Congress on numerous occasions regarding the impact that consistent and persistent reductions in personnel in the Department of Veterans' Benefits has had on the quality and timeliness of those who must complete action on claims and disburse benefits to those who are eligible to receive them.

The Department of Veterans' Benefits, as a whole, has had employment reduced by well over 5,000 FTEE since fiscal year 1979. Thus, the level of average employment in the Compensation and Pension field station personnel assigned to rating boards, the adjudication and authorization divisions, has also undergone a steady decline. In the period from March 1985 to March 1987, the FTEE has further dropped by 8.2 percent from 3,835 to 3,547, and under the budget request for fiscal year 1988 the level of FTEE is further projected to be reduced by 3.5 percent. We do not feel these figures fully reflect the full impact of continuing loss of personnel upon the individual regional offices.

Although there have been no formal reductions in force, attrition through transfers to other agencies, resignations, and retirements, without replacements, has been the method by which mandated staffing levels have been met. The loss of key adjudicative, administrative, and support personnel directly affects the timeliness of the claims process. This happens because the workload is then reallocated among the remaining personnel. Thus, you have fewer people trying to accomplish the same level of work.

One example of just how bad this situation can get—and although this is not a worst case situation, it is an example, we feel, that is in the Providence regional office where there was an individual from Vocational Rehabilitation assigned to the Finance Division in order to keep it operating, and part-time high school students have even been hired to accomplish other duties at that particular station. We have just been advised in the last day or so that these students had been—the director had been forced to let them go because of a lack of funds.

We observed that in addition to the study of quantitative loss of personnel in recent years, there have also been large numbers of retirements among the cadre of the most senior adjudicators and rating board members. Although, in the main, those employees who are replacing them are dedicated and hard working individuals, their expertise and experience cannot be replaced or duplicated overnight.

Justification by the Office of Management and Budget for the continued reduced levels of staffing has been based on statements that the number of claims for benefits has steadily been declining, and citing as an example the current GI bill for Vietnam era veterans. As this caseload declines, this should theoretically enable the regional office directors to assign the personnel within the station to other types of cases to facilitate processing.

Upon a review of the summary part of the performance of field stations in the Compensation and Pension Service for the period of March 1985 through 1987, the data does, in fact, confirm a downward trend in some, if not most, categories of claims processed. However, Mr. Chairman, reliance upon such cumulative data can give a misleading picture of field station operations and mask the adverse effect of the continuing staff cuts.

In almost every category, the amount of time required to complete action has increased, meaning that fewer cases are being processed in comparison with performance levels in the recent past, and we have cited some examples in our statement.

There is a disturbing fact that it is now taking substantially longer to complete the processing of an individual's benefit application and to pay any monetary benefits that may be due. The continued erosion of processing time is despite management technical improvements within the Department of Veterans' Benefits.

Mr. Chairman, the American Legion is deeply concerned that the field operations under current staffing levels is not even able to hold its own in terms of processing the current workload in a reasonable, timely, and efficient manner. In many cases, such as disability compensation, pension service-connected death benefits are becoming increasingly complex and require more man hours to develop and adjudicate. An obvious conclusion can be drawn that the continued reductions in staffing have had a direct and adverse impact on the Veterans' Administration's ability to deliver services and benefits in an efficient, timely manner. Technological improvements are still some years away.

The American Legion is convinced the Department of Veterans' Benefits and its Compensation and Pension Service cannot effectively operate at current staffing levels, much less at the reduced levels of employment called for under the administration's budget for fiscal year 1988.

We wish to commend the subcommittee for scheduling this hearing in order to examine the effects that the consistent and persistent personnel reductions are having on the ability of the VA to carry out its mission. We wish to thank you, Mr. Chairman, for this opportunity again.

[The prepared statement of the American Legion appears at p. 103.]

STATEMENT OF GORDON R. THORSON

Mr. THORSON. Chairman Applegate and members of this subcommittee, the Veterans of Foreign Wars is honored to have this opportunity to appear before the subcommittee and state our viewpoint.

This oversight hearing is important to our Nation's veterans, particularly those special individuals who served their fellow veterans as veterans' service officers. We have already submitted written testimony, and it is especially requested that our entire testimony be made a permanent part of the record.

Mr. APPLEGATE. Without objection, it is so ordered.

Mr. THORSON. Thank you, sir.

Mr. Chairman, your letter of invitation to this hearing clearly stated the scope and subject of the hearing will be timeliness and quality of processing claims for compensation and pension in the regional offices of the Department of Veterans' Benefits. Your invitation went on to state, "We want to hear from your witness what you and your people stationed in the regional offices think about the current performance of the adjudication activity, both favorable and unfavorable."

Well, sir, the Veterans of Foreign Wars went directly to our veterans' service officers with your concern. A questionnaire specifically targeted to the stated scope and subject matter of this hearing was developed and distributed to our service officers on April 28. Their responses have been returned, and a summary of the results is now part of our written testimony.

The subcommittee's suspicions appear to be true. There is an apparent deterioration in the ability of VA regional offices to adjudicate claims in a timely manner. Our service officers' survey clearly indicates that the reason for this deterioration is inadequate staffing. In addition, many knowledgeable VA adjudicators have left the system, mostly through retirement, and their replacements do not have the knowledge or training to keep up with the workload.

Our VFW service officers' independent questionnaire responses, when combined, overwhelmingly suggest that sufficient staffing and training is vitally needed to turn the Veterans' Administration regional office adjudication activity back into a timely and quality service.

Thank you, sir.

[The prepared statement of Gordon R. Thorson appears at p. 106.]

Mr. APPLEGATE. Bob.

STATEMENT OF BOB MORAN

Mr. MORAN. Thank you, Mr. Chairman.

First of all, I would like to say on behalf of PVA it is an honor to appear here today. I'd like to thank the chairman and the members of the subcommittee for holding the hearing.

I would like to introduce at this time a gentlemen whom most all of you know, Norman "Gabby" Hartnett, who was with the Disabled American Veterans for 25 years. He has joined PVA as our national service director at the first of the year. It is, indeed, a privilege to have Gabby on board with PVA, and he will be glad to respond, as well as myself, to questions at the end of our statement.

Again, since our statement has been entered into the record, I would like to summarize very briefly and make some general observations from our service officers who are located around the country who were also polled. In fact, we are prepared to enter into the record our results from our service officers around the country, so you can hear first-hand what they have to say.

PVA polled 55 service officers located throughout the country, and we basically heard the same story from all of our service officers: Budget restraints, staffing reductions, increased workload led to the delay in the timeliness in the adjudication of claims as far as compensation and pension. I have an average I would like to share with you, the average being on new compensation claims 142 days; on reopened compensation claims, it was 92 days; new pension claims, 117 days; and reopened pension claims, 89 days.

It is interesting to note that Mr. Schultz mentioned earlier from the DAV and through their polling, on our new pension claims we were about 2 days apart, and on our FTEE loss, as far as in adjudication, we were off one. So I think we have a very consistent number through our service officers around the country.

Due to the workload and the timeliness or the delay in adjudication of the claims, we feel that it has caused a morale problem within VA personnel in adjudication, and errors are going to be made. We would like to point out, though, that within the system, within the adjudication system, there are checks and balances that catch mistakes, due process, and all of this leads sometimes to the reapplication of claims or the appeal process which then again creates more time delay.

A lot of our service officers commented on the staffing within the VA in their particular regional office, and one of the common thoughts that was relayed to us was that the VA adjudication people are good, they are good people, they mean well, but when faced with all of the budget restraints, staffing reductions, there are problems, and they are dealing with it the best they can.

Some of the added reasons that were reported to us were the delay in getting the medical records, which the chairman or one of the members asked the question as far as computerization, as far as obtaining medical records, something that would be very useful and certainly speed up the time delay. Also, receiving military records in a prompt way would help.

One last comment in my summary is that any added loss—all of our people reported that any added loss in the adjudication departments would not only be disastrous but it would increase the time that much more.

In conclusion, I just would like to finish up and read a quote from one of our service officers that I thought said it very well. He said timeliness in adjudication is under control but definitely needs improvement, for we are not just speaking of statistics, we are concerned with people's lives.

That concludes my statement.

[The prepared statement of Bob Moran appears at p. 108.]

Mr. APPLEGATE. Gentlemen, thank you very much.

Mr. McEwen.

Mr. McEWEN. I would just like to thank the panel for their presentation and look forward to the VA's response.

Mr. APPLEGATE. Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman.

I'd like to ask the entire panel, in your experience, how well does the VA deal with the inherent trade-off between quantity and quality, and do you think the VA adequately balances both?

Mr. HARTNETT. I'll try that one.

Frankly, I think that we are sacrificing quality for quantity. It has become an end product oriented agency, regrettably, and some of the responsibility is VSO shared. While we were fighting to preserve the medical care system, we to some degree neglected getting appropriate staffing levels to DVB.

Another factor is, you have got a mass exodus of experienced people in the class of 1946, replaced by new people who don't have the same commitment to long-term employment, who don't have the same capability, and thus you need more people with more training.

Mr. EVANS. Would anybody else care to add anything?

Mr. Egan.

Mr. EGAN. To the extent that DVB has lost some 30 percent of its people over the last several years, I think it is impossible to say that quality could in any way be preserved, and so necessarily we have a situation now where quantity is pretty much the watchword.

Mr. THORSON. We agree that with the loss of key individuals such as those who have taken early retirement, the class of '46, the system would suffer, and the quantity—the workload is increasing and increasing, and with less qualified people to deal with that workload, it is becoming a very great problem.

Mr. EVANS. Would you say that the veterans are far more affected by budget cuts than claimants for other Federal agencies?

Mr. EGAN. I would venture a guess by saying yes, and I base that conclusion on just a broad look at the VA budget in almost all categories, including DVB, by contrast with other similar programs in the rest of the Federal Government. Those programs have been cut perhaps more in recent years than the VA, but you have to remember that in the course of the development of VA programs there have always been built-in efficiencies that do not exist in other similar Federal programs.

So when you say to the VA that you have to take your fair share of cuts, you are really requiring the VA to take a disproportionately larger cut, because VA has not been an overly unjustifiably expensive program.

Mr. EVANS. Are there any other comments?

Well, Mr. Chairman, I want to thank you again, but I also want to thank these veterans' organizations for coming forward and testifying on this important issue before us today. Thank you.

Mr. APPLEGATE. Thank you, Mr. Evans.

Mr. McEWEN. Mr. Chairman, I just want to add one other thing. In response to Gabby's statement that perhaps the veteran service officers could bear a certain responsibility, it's interesting in all this that the Congress doesn't come under more attack.

The fact of the matter is that we are asking the Veterans' Administration to just do things that perhaps are physically impossible. Given the quality of equipment and as much paper information that we have and as little computerization that goes on in the VA, and the workload for everyone else to accept responsibility in this, to point a finger at the VA and also say the veterans service officers perhaps bear a little responsibility—I think that Congress bears some responsibility here too. We are going to cut the staff of the VA by a third, have increasing claims, and then sit here and point the finger because they are not constantly handled timely and accurately. I think there is enough burden to go around here, and I just hope that we can clear it up, but it is going to take some finances.

Thank you.

Mr. APPLEGATE. Thank you, Mr. McEwen. I would ditto that, and of course that is what we are here to do today, to try to resolve that and to reassume our responsibilities in correcting some of these problems.

Mr. Bilirakis.

Mr. BILIRAKIS. Thank you, Mr. Chairman.

I, first, would like to welcome back Gabby.

I attended what I thought was your swan song in Lakeland a few years ago, Gabby, and here you are back again, and we are all happy for it. There is an awful lot of experience and history in you which would have been wasted as far as all of our comrades around the country are concerned. So we are awfully glad to have you back, sir. My commendation to Bob and the rest of the people for picking you up. I think it is just great.

I would also ditto Mr. McEwen's remarks. You know, it is interesting that we expected to see reductions in labor force across the board as far as Government agencies and what-not are concerned, and Bob McEwen mentioned the Congress, and even as far as we are concerned.

We don't want our staffs to be angry with us for this statement, but Gramm-Rudman came into effect, and all of a sudden, for a period of about 3 months, we had cuts, and then all of that money was restored back to us. So I guess we are all playing games, but we are not playing games with the VA; we are actually cutting the Veterans' Administration.

Bob, you are right. I have heard these gentlemen in our hearings. They have said basically we will tighten our belts, and we are willing to take our cuts, as long as we see that others are doing it, too. I think it is probably the only group that I have heard volunteer that sort of thing in all of my years up here.

Mr. Thorson—Gordon, your questionnaire was by telephone?

Mr. THORSON. No. Our questionnaire—last week, our service officers came into Washington, D.C.—

Mr. BILIRAKIS. Oh, I see.

Mr. THORSON [Continuing.] For a twice a year training conference, and completed the questionnaire during the course of that training conference. The training conference is there to upgrade our service officers' ability to deal with veterans and their claims.

Coincidentally, this conference was held last week, and, knowing this hearing would take place, I quickly put together a questionnaire and gave it to these individuals to complete at their leisure, and then I picked them up last Friday.

Mr. **Bilirakis**. You did. Well, that's great.

Let me ask you, though, year after year after year, are there not basically the same complaints?

Mr. **Thorson**. As it pertains to what, sir?

Mr. **Bilirakis**. As it pertains to an adverse effect on the handling of claims, the timeliness, and other areas.

Mr. **Thorson**. Maybe so, sir, but not as much as it has been in the last few years. It is increasing, sir. Each year, it becomes more and more evident.

Mr. **Bilirakis**. The last panel—and I don't want to take up too much time here, because we have a couple more panels—three more, I guess, to go. But the last panel put emphasis on the lack of uniformity as far as the training of the personnel is concerned, and your panel seems to be putting more emphasis on reduction in personnel.

I think we are all big boys and girls, and I think we all would admit that the size of a staff is not always the answer; the lack of size of a staff is not always the answer. In other words, quality can still be there if you have a smaller staff, or there could be a lack of quality no matter how large of a staff you may have. I think we all would agree there. So you are not attributing the entire problem strictly to just the reduction in personnel, are you? I would hope not.

Mr. **Thorson**. Paul?

Mr. **Egan**. If I could just add to that, I haven't personally represented a veteran's claim since 1979, but at that time it was pretty clear, even then, that there was a great deal of inconsistency from regional office to regional office in the treatment of specific similar claims. I would just underline the importance of the Board of Veterans' Appeals in assuring that there is ultimately some consistency in those adjudications. I don't know that there is anything that you can do to absolutely correct the problem.

Mr. **Bilirakis**. If you don't have better training, you can have all the staff in the world, you are still going to have the inconsistencies and consequently the problems as far as adjudicating those claims are concerned.

Mr. **Egan**. Well, I don't want to say no to training, because that certainly is a good idea, but I would be inclined to agree with you that it is not going to be a panacea.

Mr. **Bilirakis**. Thank you, Mr. Chairman.

Thank you, gentlemen.

Mr. **Applegate**. Thank you very much, Mr. Bilirakis.

I would just offer this observation, and I agree with you, Mike, and what you are saying, the fact that we initiated and implemented Gramm-Rudman, and then we came back and we did exempt the Veterans' Administration, but while we maintained basically the same level, that is still a severe reduction in the amount of monies necessary to maintain the high level that we expect for the veterans.

While we can't say that money is the total answer, it certainly goes a long way to helping. So that may be one of the answers that we need to look at.

Mr. Penny.

Mr. PENNY. Gentlemen, thanks again for appearing before the committee. Certainly your appearance before the committee will be very beneficial and helpful in our final actions in trying to resolve and find out where the problems lie and what we can do about resolving them.

Thank you.

Mr. APPLEGATE. Thank you.

Our next panel is a group of four Veterans' Administration adjudication officers: Mr. Joe Dorolek from the Atlanta VA regional office, Mr. Barry Weisberg from the Cleveland VA regional office, Mr. Pat Courtney from the St. Louis VA regional office, and Mr. Tim Ivers of the St. Petersburg VA regional office.

Gentlemen, we welcome you before the committee, and let me just say this, that I commend you for appearing before the committee. I know it is not an easy task, because you are employees of the Veterans' Administration, but we look forward to some very frank and candid conversation or testimony, and we welcome you to the committee. If you have any particular order in which you wish to begin, you may proceed.

Mr. DOROLEK. I'll begin, Mr. Chairman.

Mr. APPLEGATE. Mr. Dorolek.

STATEMENTS OF JOE DOROLEK, ADJUDICATION OFFICER, ATLANTA VA REGIONAL OFFICE; BARRY M. WEISBERG, ADJUDICATION OFFICER, CLEVELAND VA REGIONAL OFFICE; PATRICK K. COURTNEY, ADJUDICATION OFFICER, ST. LOUIS VA REGIONAL OFFICE; AND TIM IVERS, ADJUDICATION OFFICER, ST. PETERSBURG VA REGIONAL OFFICE

STATEMENT OF JOE DOROLEK

Mr. DOROLEK. Mr. Chairman and members of the committee, my name is Joe Dorolek. I'm the adjudication officer at the VA's regional office in Atlanta, Georgia. I've got 17 years of service with the Veterans' Administration. In addition to my current assignment, I have served in the central office for a short while of time. I also worked at the regional offices in Buffalo, New York, and Columbia, South Carolina.

I would like to thank the committee for the invitation to appear this morning, and I will be happy to answer any questions that you may have.

Thank you.

STATEMENT OF PATRICK K. COURTNEY

Mr. COURTNEY. I am Pat Courtney. I'm the adjudication officer at the St. Louis regional office of the Veterans Administration. I have also been the adjudication officer in the Nashville, Tennessee, regional office. I have approximately 16 years of service with the Veterans Administration. I am a Vietnam era veteran, and I hold degrees in political science, a master's degree in public affairs, and post-graduate work in organizational behavior.

The St. Louis regional office, in addition to the normal workload items of compensation, pension, and education benefits, is also responsible for administering a national program called Reinstated Entitlement Program for Survivors, REPS, or, as some folks refer to it, the Quayle amendment benefits.

We are also responsible for supervising the liaison activities between the Veterans' Administration and the National Personnel Records Center that is also in St. Louis, and recently we have been identified as the location for the agency's processing of all Chapter 30 educational benefit claims under a folderless file process.

I am also available, Mr. Chairman, for any comments.

Mr. EVANS [Acting chairman]. Thank you, Mr. Courtney.

Mr. Weisberg.

STATEMENT OF BARRY M. WEISBERG

Mr. WEISBERG. I'd like to thank the committee for inviting me here, especially since I've got two Ohio representatives to speak to who I think now my name. We have been dealing with each other through intermediaries for quite a number of years.

I have been with the VA, after 2 years in the Army, law school, and college, for 28 years. I started in the Cleveland regional office. I left about 16 years ago to go to assistant adjudication officer in the New York regional office for 3 years, and then I was part of the team that went to Los Angeles to get that station back on its feet as the adjudication officer for 3 years, and then I was asked to come back to Cleveland, and I have been there for 10 years.

I want to make a few comments, if I may. I have never been very productive. I'm usually in the bottom of the middle third in that particular hierarchy, and I'm still here. I've got people that are dedicated; I'm dedicated; I'm especially dedicated to the Cleveland office, having spent most of my life there. I do not tie my people's production to this computer that came along. The computer is a lure; it's accurate; people can't cheat on their account of what they do. I think I tie my requirements from my people to the length of time I really think it takes them to do that particular action, and, through a combination of measures, I think I get a nice, fair mix.

SQC is a system for measuring a group of people, a large group of people. That is not the way I decide my people's quality. Much of their work is reviewed by a senior adjudicator in the case of adjudicators, by section chiefs in the case of rating specialists, and in almost every job category there is an independent review of a person's work during the year. It's old-fashioned. I've never been in Central Office. This is my second visit to Washington in 28 years. The first time was before they decided if I could go to New York, which was also in trouble at the time.

The microcosm is what we are getting into here now. You know, those cases are there. We are going to work them, and we are going to work them with what we have. I've never been fast in any of the stations. I've been lean in Cleveland for the past few years, and I've been able to do the job, I think. My timeliness has improved on a curve like that, as we were able to give the people the training.

I was able to bring the supervisors into looking at these old cases and seeing can't something be done, because, after all, no answer is the worst answer. Even if you are going to give them a somewhat wrong answer, it is better than nothing. I have no problem with these new due process requirements that are coming on. It is just going to take longer to do a case. It is going to create more overpayments, as we cannot reduce someone, which seems to be another concern of Congress but in other hearings.

I live in dread, though, of what is going to happen to me next year. They are going to take eight people away. Now I'm cut to the bone. We have got 171 people; they are going to take 8 of them away. What are they going to be? Well, there is just so much you can take out of the clerical. I am going to lose. As I have planned it, I have to lose three supervisors, and I would also lose two senior examiners—actually, a total of four senior examiners, and I can lose a searcher.

I cannot emphasize more the importance of supervision. My supervisors are overworked. Gleaning them out, they are not going to give you the quality. They are the people that get asked the questions on the hard cases. They are the remnants of the class of 1946. They are the people like me who came 10 years later and were able to learn from these people, from the class of 1946. I could give you Charlie Peckarsky quotes all afternoon, if you wanted, but you probably heard them all.

Mr. **Evans**. Before you do, we would like to have our people—I guess he is here.

Mr. **Weisberg**. Yes, he is.

Mr. **Evans**. So go ahead if you want to, but we don't like speaking in people's absence.

Mr. **Weisberg**. It is very funny that when I got called by Charlie to see if I would be available, I had just decided I was going to start asking my people to work smarter instead of harder again—that's one of the things we try over the years—and I was going to really narrow in on the quality of the adjudicators, measured by the number of cases that get returned to them by their senior examiner, not by SQC. SQC just proved that they were all wonderful, because the senior examiners were bouncing all of these cases to make sure they got done right to the best of their ability.

So SQC is a management tool, a training tool; it tells you in general where you ought to give training, but most of the quality is gotten out by day-to-day interaction between the reviewers and the people working the cases, be it at a senior level or a supervisory one.

So at this point I'm open to your questions later.

Mr. **Evans**. Thank you, Mr. Weisberg.

Mr. Ivers.

STATEMENT OF TIM IVERS

Mr. **Tim Ivers**. Mr. Chairman and members of the committee, my name is Tim Ivers from the St. Petersburg regional office. I would like to thank you all for inviting me here today. I am honored to have been asked.

When a veteran files a claim, he typically has two questions: How much am I entitled to, and when will I know the outcome? These are the concerns of our clients, and they are entitled to reasonable answers.

The first question speaks to quality. We have an obligation to pay the correct amount to the correct person. This is basic. The second question speaks to timeliness. The veteran has a right to have his claim considered as rapidly as possible, and we have an obligation to avoid undue delays.

To the veteran, an unresolved claim is the same as denial. He gets no money, and he doesn't even know the status of his claim, nor does he have appeal rights. In St. Petersburg, we have found a direct relationship between staffing levels, case backlog, and timeliness. I regularly track these for my division.

In April to June, 1986, we lost significant numbers of trained staff to early retirement. The people were not immediately replaced. The precipitous drop in staffing was paralleled by a drop in output of completed cases. Simultaneously, the time in average days to completion for original compensation, original pension, and reopened claims rose. We did not again reach fully allotted staffing levels until October 1986. Only then did output levels resume their prior amounts.

Timeliness improvements also followed but more slowly. Previous efficiency in timeliness has not yet been recovered. The single greatest variable in this equation is staffing. Seemingly small changes in staffing levels affect us. We lose efficiency when we move people out of their regular positions into other positions to fill the stopgaps.

Finally, it is easier to move a person from a higher level to a lower level on a temporary basis, and we pay more for less efficiency. The simplest way and the best way to avoid these pitfalls is to maintain reasonably stable levels of trained staff. Excellent quality and improved timeliness will result. This is not to say that increased staffing is a panacea that will cure all ills, nor will constant application of more people result in constantly improved timeliness and quality. There is a level of diminishing returns, but we are nowhere near that level at this time.

We have heard that veterans' claims processing is too fat and we should move towards minimal acceptable levels of service. I do not believe that we expected minimal levels of acceptable service from the veterans we now serve, and we should not give it to them. We should give them the best service we have available. The cornerstone of this service is adequate and stable levels of staffing.

Thank you, and I welcome your questions.

Mr. **Applegate**. I thank you all very much for your input, and we will have a few questions that we would like to ask.

I would like to say, Mr. Weisberg, coming from Ohio, I welcome you here especially, I guess. We have had good service through our office, through yours, when we have needed some assistance in helping the veterans, and they have been very cooperative, and we appreciate that.

Mr. **Weisberg**. Thank you.

Mr. **Applegate**. Let me say, quality and quantity are two somewhat conflicting concepts which we see that have always been present in the processing of benefit claims. Can each of you please tell us how your office manages to balance the two?

Mr. DOROLEK. I guess I'll take that, Mr. Chairman.

Mr. APPLEGATE. Okay, Mr. Dorolek.

Mr. DOROLEK. Essentially, when looking at my staffing distribution, I will ensure, to the extent possible, that my claims processing people—my rating board members, my claims examiners, and my development clerks—that, at best possible, I am adequately staffed, that, if I can get it in that area. I will short-change my supervisory activity and I will short-change my files activity.

What I am trying to do: I deliver benefits; I am judged on the basis of the delivery of benefits. I am trying to maintain the delivery of benefit levels; I am trying to maintain good levels of quality by ensuring I have adequate staffing here. The ancillary duties, the supervisory responsibilities, the million and one things we have to do, those get short-changed.

The files activity: I'm the smallest station of the four represented here. I have a quarter of a million claims files and about a million pieces of mail that I have got to make come together on an annual basis, and it is in those areas that I short-change myself. Hopefully, I can maintain the quantity in the area of production and I still can maintain the quality level that is necessary.

Certainly in the quality area, as Mr. Weisberg noted, we do review the claims processing of the individuals to assess their performance levels. We gather up all this information. We try to determine are there overall trends where our people are misinterpreting the law, regulations, or otherwise doing things improperly, or are there individual employees who have particular problems in understanding certain areas.

By the same token, there is the quantity onus, and we have to make some production demands. But we certainly don't make the demands at the expense of quality. We try to maintain our quality. If an award is wrong, it is wrong; we are going to have to do it again anyway to straighten it out. It pays to do it right the first time.

Mr. APPLEGATE. So then with the lesser people that you have to work with within your regional office, you have to do what Mr. Weisberg said, work smarter than harder.

Mr. DOROLEK. I like to think so, sir, but the penalties I'm paying in my files activity now are rather dramatic. The computer does churn out a heck of a lot of mail, and getting that mail into the claims folder is becoming an overbearing task.

Mr. APPLEGATE. Mr. Courtney.

Mr. COURTNEY. Yes, sir. Thank you.

I could only add to what Mr. Dorolek has indicated by saying that it is important in any organization to ensure accountability, and you do that through sound performance standards for all levels of employee. We have clerical staff; we have adjudicators who are responsible for the initial handling of claims; we have authorizers that are responsible for the soundness of cases that they review, for, in the final analysis, the benefit payment is determined based upon their final signature. We have rating specialists who generally, throughout the organization, have moved up through the organization, have started in the organization as claims processors and have demonstrated that they are the people that can exercise the sound judgment necessary to make analysis and disability claims.

The cornerstone of what we do centers around quality, and a sound training program, coupled with those quality concerns, the identification of where we might have problems in trying to rectify them, are very important to us.

Mr. **Applegate**. Mr. Weisberg.

Mr. **Weisberg**. As I have said for the past 2 years, I have been lucky; I've only been lean. So I was able to give training. I was able to bring on some employees, and, by the way, four of the last six adjudicator trainees I hired from outside were attorneys. It was hard. OPM does not make it easy to hire from outside.

I work my supervisors to death. You have to cut them, like Mr. Dorolek said. They work 7 days; they take work home; they also help out and authorize so they know what the adjudicators are doing first-hand.

My time is up.

Mr. **Tim Ivers**. In St. Petersburg, if we begin to get backlogged, the answer is, stack the cases neatly. We do not ever say forego quality and crank out more cases. We just stack them up and hope that relief will come. Timeliness suffers rather than quality.

Mr. **Applegate**. Well, let me ask you this. I think that it has been alleged, at least to some degree, that the VA management evaluation system emphasizes productivity and timeliness to such an extent that managers are encouraged perhaps to violate the due process rights of VA claimants. It has been further alleged that the system encourages managers to report incorrect quality levels at their stations in order to receive higher performance appraisals. How would you respond to these allegations? Are they true, in your estimation?

Mr. Dorolek.

Mr. **Dorolek**. Well, sir, in one of my quality levels I'm reporting an 11 percent error rate, and in another one I'm reporting a 9 percent error rate. That certainly doesn't endear me to my station director. I've reported the quality honestly.

The difficulty on the quality area is, it is a difficult and a multimeasure. It is a lot easier to measure timeliness and productivity. Quality is somewhat nebulous. To the extent possible, we try to do good quality reviews and report our statistics accurately.

Mr. **Applegate**. Mr. Courtney.

Mr. **Courtney**. Yes, sir. Thank you.

Principally, I would have to say that I have been measured at the two stations that I have been a division chief for the Veterans' Administration principally on the division's ability to provide benefits and services. Now that encompasses many things. It encompasses our quality level, as measured by our own statistical quality analysis and validated by Central Office's review. Central Office reviews each station's quality level twice a year by taking an independent sample of cases to look at. They also review management reports that are submitted for that purpose. My station director has taken into account how well we identify our own quality problems and whether or not Central Office's findings replicate those.

I am also necessarily measured upon the timeliness of service that we are able to provide, and I think that there are some realistic understandings that have been made in that process based upon the staffing that we have available, the training level of the employees that we have had.

There were many occasions in the 7-plus years that I have been a division chief where I have been decimated, for one reason or another, of almost all of our clerical staff at one time. They have found jobs elsewhere because of the salaries that the Federal Government is able to pay. They have sought retirement, et cetera, et cetera. So we have had to make adjustments based upon those occurrences. Presently, I happen to have in the St. Louis regional office a pretty stable staff. Every time I mention that, something happens. I have to be careful about that. But I feel that I have been fairly evaluated, and the stress has not been on productivity.

Mr. APPLEGATE. Mr. Weisberg.

Mr. WEISBERG. In Cleveland, I feel I have been evaluated more on how have I reacted to the problems? Am I coming up with new ideas? Am I trying things? Certainly, if you have a problem, you are better off finding it yourself before the team comes from Central Office, and then they are happy; you are doing your job.

We have never ignored Central Office recommendations. One time I had to write every month for 2 years to say what was happening in Cleveland. This was in the early days when I got there.

That's about all I have to say on it.

Mr. APPLEGATE. Mr. Ivers.

Mr. TIM IVERS. My personal performance standards require that I validate my quality figures with a Central Office review. If I fail to validate my quality standards, then I fail to meet my performance standards. My director's performance standards are similar. My standards do not contain a productivity measure that I must meet in order to succeed. I have structured the performance standards of my adjudicators and my rating board members so that they can be outstanding if they turn out excellent quality with mediocre quantity. They cannot succeed if the reverse is true.

I have been in St. Petersburg regional office for 15 years. I want to be associated with a station that is known for its quality, not its speed of turning out cases.

Mr. APPLEGATE. I think that is understandable, too.

I have a number of other questions that I would like to ask, but I think time is not really going to allow that right now, because I want to get to some of the other Members, and I would like to submit those questions to each of you, and if you could reply with an answer as quickly as you possibly can, I would appreciate that. They will be made a part of the record, and they will be important to us in evaluating our directives.

Mr. McEwen.

Mr. MCEWEN. Thank you, Mr. Chairman.

Barry, thank you for coming, and all of you for being here. I have a simple question. You can answer it in about 10 words or less. If you had the authority to change the system, what would you do?

Mr. WEISBERG. You are talking to me?

Mr. APPLEGATE. Let's start with Mr. Dorolek. We will go from left to right.

Mr. DOROLEK. I don't know if I can recommend any changes in the system. I appreciate the way the system is built. Mr. Carrel for the VVA, as he noted, he isn't aware of any Government employee, an VA employee anywhere, who was out to reduce a veteran's benefit. The employees I have come in contact with have all wanted to give the veteran every penny he is entitled to but not a penny more. It is an attitude that permeates the agency. I have been through the agency; I have been to a number of offices; the attitude exists.

We have got some problems, but generally we respond about as fast as a bureaucracy can respond to something like that.

Mr. COURTNEY. I think we in the Veterans' Administration are fortunate that we have a system that has been very carefully designed. It has been carefully designed with a lot of safeguards that protect veterans' interests in the claims processing business.

We are not self-interested, nor is my paycheck determined based upon how many dollars are paid out of the St. Louis regional office. That is not a concern of mine. A concern of mine is that we adequately apply the rules and regulations that we have.

We have doctrines such as reasonable doubt. We do not stand on strict rules of evidence. We allow representation and encourage it in the process.

Mr. MCEWEN. Okay. I just wanted to see if you had any real glaring instances of something that we really ought to look into as to how we would change it.

Mr. COURTNEY. No, sir.

Mr. MCEWEN. Okay.

Mr. WEISBERG. I have worked within the system and, I think, done all right for all this time. I see a trend—it started about 3 or 4 years ago—to involve the regional office adjudication officers and other division chiefs more so in the decisionmaking process in CO. This gentleman was very instrumental, and I think one of the others of you, in this whole new EVR procedure that we went into that worked the smoothest of any new procedure we have had.

I just want to say that you can't work a few years in a regional office and then go to Central Office and spend 20 years there and be an expert on regional office unless you are very, very bright and very, very open. We are the field; we know about the ivory tower in Washington, and I see some help in that in the past few years. They are coming to us; they are asking our opinions much more so than in the past.

Mr. TIM IVERS. I think the system is changing, Mr. McEwen. It is moving forward with more automation. I would like to see us continue in that general direction. I think that automation, in spite of perhaps the lack of warmth of some of our computer letters, it does permit us to communicate more often and more fully to veterans. I think that you have heard testimony that it would be good if we could automate information exchanges between the various organizations that we get records from. I would very much like to see us continue to move forward in that direction.

But the basic philosophy of the system I would not want to see any radical changes with. I think we are serving the veteran as well as we can.

Mr. MCEWEN. Okay. I'm glad to hear that response.

When the Central Office sends you an analysis of your performance, office quality checks, what do you do with those?

Mr. DOROLEK. Essentially, we do what Central Office tells us, and someone from my director's office comes around and makes sure I did what Central Office told me to do.

Mr. MCEWEN. Do they tell you how to make the changes?

Mr. DOROLEK. Generally speaking, yes. Sometimes they will say reconsider this, where then the decision is up to us. Other times, they will say, hey, you are flat wrong, and you need to do this.

Mr. MCEWEN. Thank you, Mr. Chairman.

Mr. APPLEGATE. So what you are saying is, you have little to say.

Mr. DOROLEK. Yes, sir, as far as that goes.

Mr. COURTNEY. If I could add to that, though, sir, built into the system is the opportunity for us to seek reconsideration. If they indicate in an individual case that they feel that we have made an error and we find that the evidence justifies a different conclusion, they have been more than open to discuss a reversal of any conclusion that they have made.

Mr. APPLEGATE. Mr. Evans.

Mr. EVANS. I thank you, Mr. Chairman.

I think in the interests of time I will submit written questions to this panel, if we have that right.

Just one quick one. Mr. Weisberg, you are losing, I guess, about 5 percent of your supervisors. Does this indicate that you expect a 5 percent decrease in your case load?

Mr. WEISBERG. No. My case load will probably stay about the same.

Mr. EVANS. You don't anticipate an increase next year?

Mr. WEISBERG. No increase, no. You have got to understand, we are not talking education at all here. With the mix of the two, I'm about a 50/50 station.

Mr. EVANS. Thank you, Mr. Chairman.

Mr. APPLEGATE. Mr. Bilirakis.

Mr. BILIRAKIS. Mr. Ivers—Tim, I would like to welcome you here.

Mr. TIM IVERS. Thank you, sir.

Mr. BILIRAKIS. Our weather is a little better for you these last couple of days than it has been.

Also, thank you and your staff for all the great cooperation in terms of working together with your offices to service the veterans in our area.

Mr. Weisberg, the eight people that you say they are taking away from you or they have indicated to you they would take away from you, is that the result of the administration's budget?

Mr. WEISBERG. I'm talking from a microcosmic viewpoint. My station is given its allocation for 1988, the preliminary allocations, from Washington. My own director decides how much should go to each division.

Mr. BILIRAKIS. Well, all right. We are still talking about dollars.

Mr. WEISBERG. The present number I have is good until October 1. We are talking fiscal year 1988 budget. It is causing him to warn me that he would expect me to lose eight people and I had better start planning for it.

Mr. BILIRAKIS. But these things are still tied into dollars, and the dollars that came out of this committee and the dollars that came out of the House budget were still greatly in excess over the administration's budget. So are you still anticipating losing those people?

Mr. **Weisberg**. I only know what I have been told. I cannot follow the process. It is very filtered down by the time it gets there.

Mr. **Bilirakis**. I realize that, okay.

Mr. **Weisberg**. And I'm worried.

Mr. **Bilirakis**. Well, now, you four gentlemen were in the room when the veterans' groups testified, and you have heard their complaints. Unfortunately, you, like we, don't hear enough positive things, and we don't get enough gratitude. We certainly get the negatives, and there are negatives as far as the compensation system is concerned; I'm sure you all would agree there.

You have heard about inconsistent training; you have heard about adjudication in one State being—what—as much as 60 points different from adjudication of a similar case in a neighboring State, an adjacent State. We have heard talk about tardiness and lateness as far as the time that it takes to process claims and what-not. So there are problems out there.

Now I'm not going to ask you to address those problems here today even though I had really planned to. In the interests of time and everything of that nature, I will not do that. But I wonder, Mr. Chairman, would these people be precluded by the Veterans' Administration or by their supervisors to submit to us in writing their responses to some of the things that we have heard here today? For instance, the inconsistent training.

The directives that you receive from your Central Office, are they consistent? Are the directives that you receive, Mr. Dorolek, consistent with the directives Mr. Courtney receives? Is the training that you give your people consistent with the training that Mr. Courtney gives, et cetera, et cetera, so we can have maybe a little better—not a little better, a heck of a lot better uniformity as far as adjudication and all that is concerned. Are you all precluded in any way from responding to that to us in writing?

Mr. **Dorolek**. Not that I am aware of.

Mr. **Bilirakis**. You are not.

I understand you are testifying to us as individuals, but when you respond to us—well, let's face it, in the real world is, we all have superiors. There won't be any problem with that? You can be candid with us in terms of responding and any suggestions that you may want to make towards those areas—right?

I suggest, Mr. Chairman, that that would be very valuable information and ask, rather than take time here today, that that be submitted to us within—what period of time might we be talking here?

Mr. **Applegate**. I would say within two weeks.

Mr. **Bilirakis**. Is that all right?

Mr. **Tim Ivers**. Yes, sir.

Mr. **Bilirakis**. Okay. Thank you.

Thank you, Mr. Chairman.

Mr. **Applegate**. And I would agree with you, Mr. Bilirakis. We certainly would not want to see any problems come up from these gentlemen giving us their individual opinions on these questions. I'm sure that their superiors are going to be, I suppose, just as anxious to know some of the problems that exist, too. Whatever suggestions that are given will be helpful to the overall system. I would just say that there will not be any repercussions.

Mr. Penny.

Mr. PENNY. Thank you, Mr. Chairman.

It has been alleged that errors are identified that go uncorrected. Do any of you have any cases in your office where an error has been identified but you have failed to correct it?

Mr. DOROLEK. Mr. Penny, generally the service officers keep a tight watch. My phone will ring off the hook with an alleged error. After discussions, sometimes there is an error; sometimes it is a breakdown in communications. But certainly the service officers play that role.

With respect to those veterans who don't have, say, service officer representation, hopefully if we pick this up on quality or it is otherwise brought to our attention, we will correct it.

As Mr. Courtney noted, it is immaterial whether we grant or award it as far as our personal jobs are concerned; it is a question of what the veteran is or is not entitled to, and if we made a mistake, then we need to correct it.

Mr. PENNY. Is there typically a drawn out debate back and forth before that correction is made or that issue is resolved?

Mr. DOROLEK. No, sir.

Mr. PENNY. I mean I imagine it varies, but I'm just trying to get a—

Mr. DOROLEK. No, sir. I would be the final resolution at my field station, and if I was unsure, I'd call Central Office for their advice if it was that complex. But generally speaking, if you see it and it is a blatant error, we correct it immediately.

Mr. PENNY. Mr. Ivers.

Mr. TIM IVERS. We receive instructional letters from VA Central Office, SQC quality letters, that are to aid us in training, and in my station when we receive the letter we immediately set up a training session for the employees, and we go over the letters point by point, and we make every effort to implement the guidance that we have received.

In St. Petersburg, we generally consume between 3,500 and 4,000 standard man hours every month in training. So it is a sacrifice to us in man hours, but we intend to train as much as possible and see that we do it right.

Mr. WEISBERG. The first thing we do in Cleveland when we receive exception sheets back from our Central Office reviews, we do them and see if we can argue, and they do sometimes accept our arguments, but most of the time it ends up that that is the way it is, and we had better do it, and we do it, and we have to follow through to make sure we do. We mix those exceptions into our own identified exceptions for training purposes. We hold classes about two times a year to go over are there any particular patterns that are involved. There are always mistakes that are going to occur, so you have to look for patterns, and that takes time.

Mr. COURTNEY. At the two stations that I have familiarity with, having served there, I feel as though we have had a very healthy exchange with Central Office. We have not always agreed, and we have expressed our viewpoints, and in those instances where those viewpoints have been overruled, we have followed through with the correct action immediately.

Mr. PENNY. So whether it comes at you from one side or the other, corrections in those files are made in a relatively rapid fashion, and you don't know, any of you, of any cases in your offices where corrections are brought to your attention but not made.

It has also been alleged that the regulatory requirement that certain veterans' claims for benefits based on radiation exposure be referred to the Central Office for review and that that has a chilling effort on the local stations' handling of the claims. Do any of you agree with the statement that bumping this up to the Central Office for review has a chilling effect on your handling of that particular claim request?

Mr. DOROLEK. No, sir, not that I'm aware of.

Mr. COURTNEY. I believe that that that is a reasonable regulatory policy.

Mr. WEISBERG. It doesn't change the way we handle the case. We are happy to let them have it and spend time on it, and we will spend time on some others. We develop them exactly the same way we would have otherwise.

Mr. TIM IVERS. In St. Petersburg, we have a large volume, the largest in the country, so virtually just about everything we do is fairly routine. That may be unusual in another station. As far as we are concerned, the Central Office referral of radiation cases is just another routine process. It poses no problem whatsoever for us.

Mr. PENNY. Do you find yourself at odds with the Central Office more frequently on those cases than any other cases?

Mr. TIM IVERS. No, sir, absolutely not.

Mr. PENNY. Anybody else?

Everybody is shaking their head, no.

Thank you, Mr. Chairman.

Mr. APPLEGATE. Thank you, Mr. Penny, and I thank you gentlemen for appearing here this morning before the committee. It has been very helpful, and we would appreciate an expeditious handling of answering of the questions that we submit to you.

To follow up on what Mr. McEwen was asking, if each of you would have any recommendations that you might have to make that might improve the system in any way, and if during your deliberations in answering questions that we submit, if you think of any changes that you think would prove to be beneficial, besides increasing the budget, I would appreciate those observations and recommendations, too. It would be very important to us.

Thank you very much for being here, and have a good trip back home.

It's not snowing back in Cleveland today, is it?

Mr. WEISBERG. No, not today.

Mr. APPLEGATE. The next panelist we have is Mr. Ronald Abrams, legal consultant to the Veterans' Administration.

Mr. Abrams, welcome to the committee. This is your first appearance before my committee. You have appeared before the full committee on a specific subject of the *NARS* case, just a generalization of due process. We had asked you to submit a statement, and you said that you had already submitted a statement to the full committee, and you resubmitted that to us. So let me ask you this question. Do you have anything further to add to your testimony?

STATEMENT OF RONALD B. ABRAMS, LEGAL CONSULTANT, VETERANS' ADMINISTRATION

Mr. ABRAMS. Thank you, Mr. Chairman and members of the committee.

I'd just like to say that I'm gratified that several service representatives and some the AO's who just testified today confirmed that the error rates and the problems in the field that I have identified in the past are true. I just think it's nice for someone else to come before Congress and say that.

Mr. APPLEGATE. You have nothing further then?

Mr. ABRAMS. I have a short prepared statement.

Mr. APPLEGATE. Go right ahead.

Mr. ABRAMS. I've worked for the VA for more than 13 years. I have a strong commitment to the mission of the agency. Thus, I am gratified that this subcommittee is taking this opportunity to examine what I and most employees of the VA see as the principal question that the agency must confront, whether it is being fair to the veteran we are here to serve.

I wish to point out to the committee that I recently had the opportunity to share my views on this issue with the full committee during its joint hearings with the Senate on March 17, 1987. Rather than simply repeating my comments, I have attached my prior testimony for inclusion in the record of this hearing.

I would now be happy to answer any questions.

Mr. APPLEGATE. Thank you, Mr. Abrams, and, without objection, we will enter your statement into the record and your previous statement that you had made, the one that you had submitted.

[The prepared statement of Ronald B. Abrams appears at p. 113.]

Mr. APPLEGATE. I have no questions at this time. I would yield to Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman, and I thank you for inviting Mr. Abrams before us, because I felt that after the *NARS* hearing that we held in joint session with the Senate that there was some further follow-up that he could give us. I appreciate that.

Mr. Abrams, I want to thank you again for having the guts to come before us and I appreciate your giving us your time.

Your written testimony indicates your work in the VA Central Office, that you participated in surveys of regional offices. Do you believe that the management techniques employed by the VA adequately ensure high quality adjudication?

Mr. ABRAMS. I wish I could say yes; I can't. The way we manage our offices now, with our emphasis on production and timeliness, which means how fast do you do a case and how many people do you need to do so much work forces our regional office managers into what I consider to be an adversarial position. They get the same credit for doing a very simple case as they do for doing a very complicated case. Therefore, it is to their advantage to have many simple cases rather than a few complicated cases that take a lot of time.

This causes real problems for our veterans, especially those veterans with complex claims, and we have a very complicated system, as was evidenced by several of the others who testified before me. When a veteran files a claim, it is the duty of the VA, according to our regulations, to assist him in the development of that claim.

However, if the claim is complicated and the adjudicator and the management in the office realize that it is going to take a long time to do, they might not request as much information as they should. Also, they might not go to as many sources as they should. This leads to a pattern of premature denials. Sometimes crucial evidence comes into the regional office after the decision has been made. In some instances an administrative denial for failure to prosecute is taken without evidence of any development.

I have seen cases where a claim has been filed, and then there is an administrative denial in the file without any development in the file and any kind of notification letter. This is done because of the emphasis on productivity and the need for the office to take end products.

In San Francisco, hearings which extend an end product were discouraged. In St. Petersburg, we had an instance of several letters being sent to the regional office telling them that their procedures violated the due process rights of our claimants. I thought, at that time that when Central Office sent a letter to a regional office telling them that they were wrong, that they would stop doing certain things. Apparently, this is not true.

I talked to one of the consultants who has come since to work in Central Office, and he told me that as of September of 1986, maybe a year and a half after we sent our last letter to the St. Petersburg office about their hearing procedures, that they were in violation of our regulations.

I believe that when you look at the evidence that we have compiled, you find real problems with the fairness of our procedures. The Atlanta office has said that they do not want to put hearings on a transcript but they would rather just keep it on tape to save time. I believe that Central Office told the Atlanta Regional Office that this procedure adversely impacts on the rights of our claimants. We have evidence that shows that about 41,000 end products involving pension were falsely claimed by many regional offices. This could lead to veterans entitled to pension being improperly disallowed.

The main problem is that unless we have an independent, tough quality check on the work that people do in the field, it is not in the field's best interest to do a quality job. That part of their work is not checked. Most AO's have a performance standard that asks them to show a certain level of error rates. It would not be in their best interest to show error rates that were higher. The only way that we can ask them to call their own errors, outside of Joe here who has a 8 and 9 percent error rate, as he stated, would be to have Central Office insist that these people have to validate their findings when it is looked at in Central Office, and that brings us to one further problem.

When policy in Central Office was changed in 1985 and new managers came in, they had a choice of attacking these problems and trying to solve them or simply declaring the problems solved by not calling the fairness errors. I believe that is what they decided to do. They de-emphasized the emphasis on due process. This was confirmed by Mr. Nicholson, who is the current chief of the quality review section.

Mr. EVANS. Mr. Chairman, my time has expired. If I could get some more time at the end of the round here, I would appreciate it.

Mr. APPLEGATE. Well, if you want to go ahead and ask some other questions, and I would ask Mr. Abrams to try to be a little bit more brief. We are pushed for time.

Mr. ABRAMS. I'll try, Mr. Chairman.

Mr. EVANS. How reliable are the error rate statistics reported by regional offices?

Mr. ABRAMS. As I just stated, it is in the advantage of the managers in our local offices to show low error rates. If the error rates that they show are not validated in Central Office and if in their performance standards there is no adverse impact on them the error rates would be unrealistically low. My 1730 case study explains this. It is like playing poker with someone who tells you what he has in his hand but doesn't have to show it. They are going to keep on showing a very low error rate, because it is to their financial advantage.

Mr. EVANS. Are there any ways to check the error rates reported by the regional offices, and what happens if, in fact, a regional office is found inaccurate in reporting error rates?

Mr. ABRAMS. What should happen is this: First, we should have a first level supervisory check on SQC in the regional office. Then that check should be validated by managers in the regional office.

What we found in our survey trips was that the supervisory personnel at the first level were pressured for time and were interested in doing things that gained them credit. Since there was very little, if any, adverse impact if they didn't call errors, so errors were usually ignored.

As far as the validation in the local office, that was done rarely, if at all. This was confirmed by the IG and other independent surveys of our SQC.

When it comes to Central Office, depending on the management style and depending on the attitude of the people involved, the error rate of the regional office can be validated or invalidated. In some regional offices, such as those that I have cited in my due process paper, it didn't matter if they didn't validate. In that case, nothing would happen to that office, as far as I know. In fact, on some of the survey trips where we went out and asked them to send us reports as to how they were improving, we never saw one report in Central Office.

Mr. EVANS. Are the error rates reported by the Central Office accurate?

Mr. ABRAMS. I do not believe that they are accurate today, and that is because Central Office Compensation and Pension management does not want to find due process errors.

Mr. EVANS. Thank you, Mr. Chairman, for your indulgence, in giving me some extra time.

Mr. APPLEGATE. Mr. Bilirakis.

Mr. BILIRAKIS. Thank you.

Mr. Abrams, you have been with the VA for 13 years?

Mr. ABRAMS. Over 13 years, sir.

Mr. BILIRAKIS. Are you a full-time employee of the VA?

Mr. ABRAMS. Yes, sir.

Mr. BILIRAKIS. Your title is legal consultant?

Mr. ABRAMS. That's right.

Mr. BILIRAKIS. Are you "the" legal consultant?

Mr. ABRAMS. No, sir.

Mr. BILIRAKIS. Are we saying there's a legal department at the Veterans' Administration that consists of many, many attorneys and you're one of them?

Mr. ABRAMS. I work for the Compensation and Pension Service, which is part of the Department of Veterans' Benefits. I am one of the consultants—and there are many—in the Compensation and Pension Service. Our title is generally stated as a legal consultant. I happen to be a lawyer.

Mr. BILIRAKIS. If you can, very succinctly, what is your function? What is your job function?

Mr. ABRAMS. Do you want my job function or everyone's job function in the Compensation and Pension Service?

Mr. BILIRAKIS. Are there other legal consultants?

Mr. ABRAMS. Yes, sir.

Mr. BILIRAKIS. Who are basically on the same level with you?

Mr. ABRAMS. Yes, sir.

Mr. BILIRAKIS. So what is the job function of that group?

Mr. ABRAMS. The C&P Service is divided into different sections. We have a field operations section that conducts survey visits and SQC checks, and I think there's one part of that section that answers questions from regional offices.

There is a policy section, and there is our section. I'm in the procedures and projects—I guess that would be the title of both of our sections.

Mr. BILIRAKIS. Does that mean that you and the people who work with you establish the procedures on which adjudication will take place?

Mr. ABRAMS. Yes. We are in charge in section 213(a) and (b) of writing the manual, which tells the ROs and the people in the field what to do in a particular situation.

Mr. BILIRAKIS. Mr. Abrams, I think you have been here since we started today, so you have heard the testimony from the veterans' people, the VVA particularly, but the others, too. And you heard someone make a comment to the effect of a lack of uniformity as far as adjudication is concerned, the particular illustration of one State with an 80-plus figure versus a 20-plus figure in a neighboring State, an adjacent State, I believe, regarding the same type of a situation. I realize that everything is never really exactly alike, I guess, for all practical purposes.

How can that be? How can that happen? And before you answer that, going back to Mr. Evans' question—anyhow, the error rates. You know, what's an error rate? Is that an error rate? Might the 80 percent people be in error, or might the 20 percent people be in error? Is the Central Office ever in error?

Is, in fact, there an adversary relationship between the regional adjudication officer and the Central Office? By that I mean do they actually have the opportunity, based on the procedures as you have help to set up, to express themselves? Are there instances where the person in the Central Office doesn't have near the experience and the background that the person in the regional office has, and that person is determining that the guy in the regional office is, in fact, in error?

Can you respond to all those questions? And if you don't feel it could be done in a matter of 3 or 4 minutes, maybe it could be done in writing. But I would like to hear from you vocally, at least, as much as you can give us.

Mr. ABRAMS. Tell me this, sir. How long do we have, because this is a long answer.

Mr. BILIRAKIS. Well, that's up to the chairman. But I really think it goes to the meat of what we're trying to decide here.

Mr. APPLEGATE. I think that it does, Mr. Bilirakis. We would like to keep the answers brief. However, that is a question that will be submitted to him and you can take it from the record. We would like a full explanation and a full answer, so that you can take as long as you want in writing it.

Mr. BILIRAKIS. Well, if you haven't made notes—and I guess you haven't—possibly the reporter can present that to you afterwards and maybe within a couple of weeks you can respond.

You know, if you're the "king", what would you do to change the system, or what improvements would you make. You're now in a position to share that with us.

Mr. ABRAMS. First of all—

Mr. BILIRAKIS. The red light has gone on. Is our time up? The question took 5 minutes.

Mr. APPLEGATE. Go ahead and answer as briefly as you can, and we will turn the light off.

Mr. ABRAMS. I have been to several regional offices on survey trips, and for a period between 1982 and 1985 I probably looked at as many if not more cases than anyone else in the country. I can state to you that if I had a claim right now, and I had a choice between St. Paul and the office in Okalhoma, I would fight like hell to get to Oklahoma.

Mr. BILIRAKIS. All right. But you write the procedures. Why should this be the way it is?

Mr. ABRAMS. When we went to St. Paul and identified the antagonistic, improper attitude of the rating boards there, I wondered, as a relatively new member to that section going on survey trips, what would happen. Apparently, as far as I know, nothing has happened.

Earl Carrel stated today that we have basically 58 balkanized regional offices. I believe that that is basically true. I thought, when I first came to work at Central Office, and for years afterwards, that when we wrote something down in our manual, or when we gave the field a regulation that the field offices should follow our laws, regulations and manual procedures. Please understand that if I write a procedure, it goes through a layer of supervisors, including the CBD.

But what I found out is that some offices would do anything they could to enhance their statistics. They were in the habit of ignoring procedures and directives from Central Office.

When we told St. Pete that their informal hearing in lieu of a formal hearing was not correct and they should cut it out, they did not listen to us. They had a meeting, I am told—and this is second hand—but I am told by somebody who said he went to that meeting, they had a meeting and they were told that they were going to appeal what we were telling them to do, and they were going to continue to offer the informal hearing.

We sent them another letter, which was written by Gary Hickman, who is here today, telling them to not do this; this is wrong. I thought the issue was settled. I thought that when the power and authority of the CBD was on a letter, or the Director of the Compensation and Pension Service, that that was it, that the office had to do it. But when this man told me that almost a year later they were still offering the informal hearing, I was shocked.

Mr. BILIRAKIS. And this is in St. Petersburg?

Mr. ABRAMS. Yes, it is, sir.

Mr. BILIRAKIS. In your written response, would you tell us why you think that they are so very wrong—

Mr. ABRAMS. I can tell you now.

Mr. BILIRAKIS. Well, again, I'm thinking of time. I am certainly very interested in hearing from you but, again, we have to consider the overall agenda here.

Would you respond in writing, sir? I assure you that your entire response to the multi-question and anything else that is addressed to you—

Mr. ABRAMS. I was just asking to have someone give me as copy of what you asked me, because it was very long and I'm not taking notes and I don't have that good a memory.

Mr. BILIRAKIS. Thank you.

Mr. APPLEGATE. We will supply you with the questions.

Mr. ABRAMS. Thank you.

Mr. APPLEGATE. We will be asking the adjudication officers that were here maybe to respond, too, and maybe Mr. Ivers can respond to that in his written testimony.

Mr. Wilson would like to question you.

Mr. WILSON. Mr. Abrams, what is your grade?

Mr. ABRAMS. GS-13.

Mr. WILSON. How long have you been a GS-13?

Mr. ABRAMS. Since 1977, or 1976, I think.

Mr. WILSON. Would you please give us the supervisory structure above you, up to and including Mr. Gerry Moore?

Mr. ABRAMS. The person above me is Mr. Yurgal. He's the chief of the projects staff. Above him is Mr. Spindle, who is his second-level supervisor. Then comes Herb Mars, who is the—I think his title is the Assistant Director, and then comes Dr. Moore, who is the Director of the Service.

Mr. WILSON. In your opinion, would any of those individuals that you have just mentioned agree with the testimony that you have just given?

Mr. ABRAMS. In private or here?

Mr. WILSON. Either place.

Mr. ABRAMS. I have talked to Mr. Hickman—I'm sorry. Mr. Hickman is not my supervisor now.

Mr. WILSON. But the question is, would any of those supervisors, in your opinion, agree with the testimony you have given here this morning?

Mr. ABRAMS. Yes.

Mr. WILSON. They would?

Mr. ABRAMS. Yes.

Mr. WILSON. The four adjudication officers that appeared on the panel spoke about productivity and quality to some extent. You have testified differently as to productivity and as to quality. You have said that it is to the advantage of the regional office manager, and to the advantage of the regional office adjudication officer, in effect, to falsify their error rates to Central Office. Is that your testimony?

Mr. ABRAMS. In essence, yes. Not to Central Office, though—

Mr. WILSON. Therefore, you question the integrity of those four adjudication officers who appeared on this panel?

Mr. ABRAMS. No, sir, I did not. I—

Mr. WILSON. They either testified falsely or they didn't. Now, did they or did they not, in your opinion?

Mr. ABRAMS. First of all, I said that Mr. Dorolek came out with, I think, an 8 to 11 percent error rate, which is more in keeping with what I found. I did not say that every adjudication officer has an incentive to cheat or lie. I did say that if the performance standard for the adjudiction officer doesn't require him to validate his or her findings in Central Office, there is an incentive for him to show lower error rates.

I did say that when I went on survey trips, and when I analyzed the cases doing SQC, I found much higher error rates in the regional offices than what they were showing. I did say that several trips have shown that the validation of local SQC was perfunctorily done, if at all. That is what I said, sir.

Mr. WILSON. I heard what you said, and I think the committee heard what you said, Mr. Abrams. You said there was an incentive out there for people to falsify their reports to Central Office on error rates. Now, isn't that what you said?

Mr. ABRAMS. That is close to what I said. I don't think I said falisfy, if you want to get down to each word.

Mr. WILSON. Well, did they or did they not?

Mr. ABRAMS. Did these people? I have no idea. I'm not working SQC now.

Mr. WILSON. In the places where you have visited, the cases you have seen, have they led you to believe that adjudication officers and directors of regional offices have falsified reports to Central Office?

Mr. ABRAMS. I would like to read you what—

Mr. WILSON. I would like you to answer the question, Mr. Abrams.

Mr. ABRAMS. I am going to answer your question.

In the due process paper that we have talked about before, I noted that 20 staton analyses were done in the last year—and they were mainly our larger offices. We only looked at the important areas of SQC, judgment and substantive. Eighty-five percent of the offices failed to validate in one important area. That means we cannot trust their statistics. It means nothing else. I am not accusing anyone of lying. I am saying it is an incentive to them, if they do not have to validate, to show lower figures.

Mr. WILSON. Mr. Abrams, I think anyone that would listen to your testimony and listen to your explanation would have to conclude that those are just words and, in effect, you are accusing the 58 regional offices, or some part of them, around the country of falsifying reports to the VA Central Office.

Also—

Mr. EVANS. Would the gentleman yield?

Mr. WILSON. Yes, sir.

Mr. EVANS. Well, I might also reflect his commitment to due process not to name individuals when he has, in fact, done studies and perhaps has not had an opportunity to directly ask the individuals and to further look into it. I think he is testifying as to what his opinion is, based on his experience in several different offices. He is not specifically testifying about specific individual adjudication officers.

If that's my reading, I think that is what he is saying and I think that reflects his commitment to due process, not to name those individuals.

Mr. WILSON. I think, Mr. Evans, that your sophistication in the field might certainly indicate that that's a valid conclusion. I would think anyone, however, reading the entire testimony of this individual, who is a nonsupervisory, nonline individual in the Compensation and Pension Service of the Veterans' Administration, has drawn certain conclusions—and I would not pursue the matter any further—but he has drawn certain conclusions that are not agreed with by almost anybody that I know of in the Veterans' Administration. Mr. Vogel will testify later on and he can be asked about this, and Mr. Grady Horton will testify later on and he can be asked about this. Mr. Gerry Moore will testify later on, the Director of the Compensation and Pension Service, and he can give his own testimony.

The fact of the matter is, I think anyone reading the entire record would have to conclude that this individual has singular opinions which are not shared by anyone else.

Thank you, Mr. Chairman.

Mr. APPLEGATE. Thank you, Mr. Wilson.

Mr. Abrams, thank you very much. We will see that you get a list of those questions from Mr. Bilirakis. Any other questions we might have we will submit to you and ask that you get back to us with answers.

Mr. ABRAMS. Thank you, Mr. Chairman.

Mr. APPLEGATE. Thank you for coming before the committee.

Mr. APPLEGATE. Last but not least, we will have the Veterans' Administration. That, of course, is an old hand, Mr. John Vogel, Chief Benefits Director, accompanied by Mr. Don Ivers, General Counsel, and Mr. Grady Horton, Deputy Chief Benefits Director for Program Management.

John, welcome, and welcome to all of you again. You may proceed.

STATEMENT OF R. JOHN VOGEL, CHIEF BENEFITS DIRECTOR, VETERANS' ADMINISTRATION; ACCOMPANIED BY DONALD L. IVERS, GENERAL COUNSEL, AND GRADY HORTON, DEPUTY CHIEF BENEFITS DIRECTOR FOR PROGRAM MANAGEMENT

Mr. VOGEL. Thank you, Mr. Chairman.

Mr. Chairman, I have a full statement that I would like entered in the record. I would like to read a brief summary of that, if I could.

Mr. APPLEGATE. Fine. Your statement will be entered into the record.

Mr. VOGEL. Thank you, sir.

I am pleased to be here with you this morning to discuss the timeliness and quality of processing of claims for compensation and pension in the regional offices of the Department of Veterans' Benefits.

We use an automated system to measure the timeliness of claims processing. At the end of each month a report is prepared based on data accumulated for the month and over the prior 12-month period. This monthly report is compared against a published benchmark to determine if claims are being processed within acceptable time frames. There are 28 standards in our timeliness system. As of March 31, 1987, we were meeting an acceptable level of timeliness in 11 of those 28 categories.

One year ago we were meeting or exceeding the acceptable level in 18 categories. The slippage in timeliness is most apparent in the area of original claims. A year ago we were meeting our acceptable levels in 12 of 16 categories, while today we are meeting it in only seven of those categories.

Mr. Chairman, in your letter you expressed particular interest in the percentage of claims completed within 90 days and 6 months. I would like to submit for the record a chart which shows 90-day and 6-month statistics in percentages of completed cases for different categories of compensation and pension claims. This chart documents the fact that we have slowly been falling behind in the percentage of cases completed within the specified time frames, particularly in the 90-day category.

The chart also reflects the decreasing number of employees within our adjudication divisions. On March 31, 1985, we had 3,835 employees to handle compensation, pension and education claims. On March 31, 1987, we had 3,547, a drop of 288 employees, or 7½ percent. Even with the reduction in staffing, the adjudication division made approximately 5,150,000 decisions during fiscal year 1986.

As you are well aware, there has been some widely publicized criticism of the agency's quality control procedures in connection with a pending lawsuit. For example, it has been alleged that regional offices have denied due process to veterans by not following agency regulations and procedures and that these problems have not been identified on Statistical Quality Control.

The criticism is not justified. I state with absolute certainly that there is no pattern of systematic denial of due process.

Due process is an area which we have given a great deal of attention for the last few years. We will continue to provide this constitutional right to all of our claimants. We believe, however, that our claimants deserve more than this procedural safeguard. They are entitled to compassionate consideration with reasonable doubt resolved in their favor.

In the quality area, I am happy to report that, except in the sense that timeliness itself is a measure of quality, there has not been a significant drop in the level of quality of claims processing. Two years ago we found an error rate in the substantive arena of 1.8 percent, and at the end of March of this year, the figure was 1.7 percent. I have included with my testimony an exhibit for the record which displays error rates since February, 1985.

As I have previously cited, the adjudication division made 5,150,000 decisions on claims during fiscal year 1986. The Board of Veterans' Appeals reversed the regional offices in 5,361 cases. That represents one-tenth of one percent of the total number of claims decided. We believe that's a very strong indication of the quality of our service to veterans. At every level our personnel are held accountable for the quality of work they perform or supervise.

It is my position, and that of the Department, that quality is paramount. I believe that the SQC program that we accomplish in our regional offices and in Central Office accurately reports the level of quality in our claims processing. I further believe that Central Office and regional office personnel conscientiously strive to resolve any weaknesses the SQC program identifies.

Finally, I wish to emphasize the invaluable assistance we receive from the veterans service organizations in bringing selected cases or trends to our attention.

Mr. Chairman, that concludes my summary statement. I or Mr. Ivers or Mr. Horton would be pleased to respond to any questions that you or other members of the subcommittee may have.

[The prepared statement of R. J. Vogel appears at p. 119.]

Mr. APPLEGATE. Thank you very much, John.

There are a couple of questions that I had. First, I was wondering, in hearing the earlier testimony of the VVA, and with the case they had brought up, can you identify—because, to me, it's a very, very serious allegation and a very serious charge, concerning the "negotiated settlement" in Puerto Rico. If that is a true case, I am very concerned about it myself and I want to find out about it, because there has been a terrible injustice done if that's the way it was.

Can you identify that or in some way find out about that for me?

Mr. VOGEL. Mr. Chairman, I share your expression of concern. If that happened, it's patently improper. We have no authority to negotiate rates of compensation, to settle anything. We have been in contact this morning, about three or four times, with the San Juan regional office, and they identified a case of a veteran who they think may have been the veteran in question. He served 4 months on active duty and was discharged with a diagnosis of schizophrenia. He was initially rated 100 percent disabled and incompetent, and later I think the competency was restored. The veteran is currently evaluated at 50 percent disalbed. The veteran has appealed and a statement of the case has been issued; however, we haven't heard from him about his desire to continue the appeal.

I'm not sure that that is the case in question; however, I cannot imagine a case of "compromising" a rate of compensation benefits. The VA has no authority to do so.

Mr. APPLEGATE. You would agree that if there is no fraud and the benefits have been in excess of 20 years, there would be no room for flexibility?

Mr. VOGEL. In the case that we have tentatively identified, there is a protection against severance of service connection after 10 years. There also can be a protection for an evaluation after 20 years; however, there is no 20-year protection in the case to which I refer. The veteran did not have an evaluation of 100 percent in effect for a 20-year period. If that had been so, he'd be guaranteed it for the rest of his life.

Mr. APPLEGATE. That's my understanding.

But your investigating into that further?

Mr. VOGEL. Yes, we are, Mr. Chairman.

Mr. APPLEGATE. I think it is fair, of course, that we ask, in light of the charges and allegations that have been made and brought forth by Mr. Abrams, and perhaps some other allegations and charges that have been made, you may recollect some of those that might be uppermost in your mind that you would want to discuss now.

Mr. VOGEL. The notion of taking too many and premature end products was mentioned by the service organizations and others. That is a pure management problem. If a station is taking too many end products and inflating their numbers with respect to their productivity and direct labor effectiveness numbers, it doesn't affect the veteran's claims or the benefits. Our system is sufficiently sophisticated that we can approximate the number of claims received and determine the number of adjudication actions taken and the number of end products taken during that process.

If the number of end products—in other words, work dispositions, for which they get time credits, which translates sometimes into staffing—if that number gets out of whack, then that's the kind of thing we can identify and correct.

[Subsequently, the Veterans' Administration submitted the following additional statement:]

> Prematurely taken end products would not inflate our counts. They would affect timeliness if they occurred in great numbers and would affect quality adversely if they occurred often. Our SQC reviews do not reveal any significant pattern of premature denials of claims. It cannot be denied that they happen but their frequency is rare.

Regarding the notion that the SQC system is flawed and there is no agreement in validation between the stations and Central Office, I would like to say a few words about what validation means. If the station called an error rate of one percent and Central Office found an error rate of one percent, we would validate their findings. We would say that we and they are seeing the same things in different samples. Similarly if they report an error rate of 90 percent, and we found an error rate of 90 percent, the same thing, then the results are validated. There is no truth or lack of truth in that.

If, however, they identify a 1 percent error rate and we find three percent, the results don't then validate. We would say we found a little bit more, and we think you ought to look at these particular areas. That's the way the system works.

What Mr. Abrams and others were describing is a system that works. It's a management tool. It is not intended and is not put in place to be punitive in nature. I think that our reviews are sufficiently sophisticated and broad-reaching enough that we can assess the performance of directors, adjudication officers, and the adjudication personnel in the divisions, as near as one can do it in an environment where human beings are involved in the process. They're not machines.

Mr. APPLEGATE. I thought maybe you might be able to answer this, something that appeared in Mr. Schultz' testimony on the last page. He was talking about some of the things disclosed by their statement. There are several things. He says while the Board of Veterans' Appeals employment levels have increased significantly in order to keep pace with their increased load, backlogs continue to grow. I remember we increased that number by 15, or up to 65, a couple of years ago, to try to alleviate a situation of heavier backlogs, and we are going to oversight this a little bit later on.

Can you give me any insight on that? What is the situation as we see that?

Mr. VOGEL. It has been stated by the service organizations, Mr. Schultz included, that the staffing level in the Department is down, and it's down markedly. We are running a race against a somewhat decreased caseload. Over the Nation, we have fewer cases. The race is on to see whether we can continue to provide a reasonable level of service given a much greater reduction in personnel to handle that work.

I am rather proud of what the Department has done in the last 3 years. Education claims are markedly down. This does not, however, provide us any slack. Last year we were in an employment freeze in the Department 1 month before the agency went into a freeze, post-Gramm-Rudman, because we saw ourselves as having the largest share of the GOE budget which was reduced.

We were frozen for 8 months. We authorized early outs, and some individuals testifying have mentioned the exodus of very experienced personnel. We had no choice but to institute a freeze. We simply couldn't make payroll. During that same period of time, we received 76 percent more home loan guaranty requests than in the previous year. We handled these in spite of significant losses of experienced loan guaranty personnel. I think we have done very well, considering what we've been up against. I'm proud of the employees in the regional offices.

I am hurt when they are criticized by some as being insensitive and uncaring. I think they're a beleaguered group. One of the toughest things to do today is to be a director of a regional office, and one of the toughest divisions to head is the adjudication division, because personnel there are always running—talking about working smart; we have been expecting them to be almost magicians.

Mr. APPLEGATE. I thank you for that, John. I have a few questions but I'm going to submit them for the record and ask you to respond. But I do have this one that I wanted to ask.

Do you have an opinion as to whether the recurring cutbacks in staffing levels in the regional offices have contributed to the problem that the VA is having in maintaining a high level of quality in its claims processing, while meeting the time standards that Central Office has imposed, and can you offer us your personal opinion on the question of cutbacks and the staffing levels of the ROs and what would you like to see in terms of staffing?

Mr. VOGEL. We know that we have fallen off in timeliness. We have the measures. It's there to see, to be examined. Our quality hasn't fallen off. It has held up pretty well.

I think, over the last 8 years or so, we've held our own—especially with the advent of the the computer system, the TARGET system, which has edits built in and some things that assist us in taking care of the mundane things that are susceptible to errors, for example, putting codes in wrong and things such as that. Without that system, we would not be in the quality position we are in today.

We are prepared, and we have the support of this committee, I know, to put more ADP systems in place, in a program we call modernization. It is our belief that we had better be prepared, technologically, to handle at least the caseload we anticipate having and modernization will help. We need that technological assistance because the general belief is that we're not going to get the staffing refief. We haven't seen it in writing yet, but I see no reason to be optimistic about increased staffing.

One of the biggest challenges we have, very frankly, is in recruitment. When you go into freezes you can't employ anybody. But you need claims examiners, so you find them somehow. We don't have a professional entry level examination available to help us to bring folks in. We have a very fine and experienced work force, but we have been impeded in the ability to bring employees into the work force. Since the PACE examinations ceased and other things—particularly hiring freeezes that have gone by the bye. I see the maintenance of quality operations as my single hardest challenge as Chief Benefits Director.

Mr. APPLEGATE. Thank you, John.

Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman.

Mr. Vogel, the error rates you provide in your testimony appear to have been generated using essentially the same methods used in 1982, when the VA Inspector General found gross underreporting of errors.

With no fundamental changes in the way VA counts errors, why are the error rates you are providing us today any more valid than they were in 1982?

Mr. VOGEL. The IG report of 1982, Mr. Evans, addressed our three categories of errors. One category is substantive, which is the most serious—which is obvious. These errors include denying basic benefits where they clearly exist. If a veteran is eligible for the GI bill and we told him he wasn't, that's a most serious error.

Then there's a judgmental category, rather serious, but not terribly so. It doesn't affect the basic entitlement.

Then there's a category called procedural errors. Procedural errors are high in volume. These include errors in which a code is wrong, some number, and then the machine tells you to fix it, that sort of thing. Filing information in the folder out of sequence also would be a procedural error.

The IG totalled all types of error together rather than keeping them in three categories, so they looked really high. They're not that high in terms of significant errors. We have validated those and have looked into that. All they did was add all three types of errors up and say that's the error rate. But it isn't. That's not how the system works.

Grady, could you add anything to that?

Mr. HORTON. Interestingly enough, that study also indicated that we were probably too liberal, to use the word. The study concluded we had a lot of unsupportable payments out there rather than denials of benefits.

Mr. EVANS. I know, because I had a lot of overpayment cases in my district. But my point is, what are the fundamental changes that may change the system so we don't have the Inspector General finding all these areas. Are you simply saying it's the way the IG looks at the error rates?

Mr. HORTON. No. The way that the SQC system works also explains one of the differences that happens in validation. When the IG looked at those cases, they started from the bottom of the case right up to the top. When our people look at cases in Central Office on CO validations, they do the same thing. So it is quite natural that that kind of a system would find errors from the time the file is first started and all the way through. Our SQC system as employed in regional offices is basically a review of the latest action that took place.

But, Mr. Evans, the SQC system again is a tool of our management system. It is not primarily a way of catching errors. Our first line of defense against errors is a part of our adjudication system. With regular review of cases by our high level supervisors, for example, all compensation and pension claims decisions require second level review. Members of Congress and the service organizations themselves also play a role in pointing out errors, and other types of problems, for resolution.

Errors get caught in our system in a whole lot of ways that are unrelated to SQC. The Board of Veterans' Appeals is another means of correcting errors that the office doesn't even know it has made.

Mr. EVANS. It appears from the error rate statistics that you have provided with your testimony that regional offices are generally reporting lower rates than the Central Office is finding. Do you believe this is because of an emphasis on productivity over quality at regional offices?

Mr. VOGEL. I think we will always fight the numbers. When you do 5 million adjudication actions about the same number as a previous year, with 6 or 7 percent less staffing, the numbers are important.

Timeliness is an important indicator; however, when Central Office does the validation (the sample of cases—I think they did 17,000 last year and in the field they did many times that) it's done by people who generally handle their area of expertise. They get very expert in that. We would expect them to find perhaps a few more errors. It is very healthy for the Compensation and Pension Service with respect to that programs and the other service as well, to identify procedural flaws, to correct those, to change the procedures as needed and to obligate stations to put together a plan to rectify local quality problems.

Mr. HORTON. Mr. Evans, the debate between quality and timeliness, between productivity, if you will, and quality, is an old debate. It's been around for the 23 years I've been with the VA. I would say it's a healthy debate. We certainly owe an obligation to the taxpayers who pay our salaries to be productive in our work.

On the other hand, I think in many cases it's a "paper tiger". I think that when you get down to an individual case it has to go through the procedures that we have set up, and when it comes down to an individual adjudication officer or director, he is quite easily able to resolve the management problems that he has in front of him. Generally, that comes down on the basis of ensuring high quality.

I like particularly the comment that Mr. Weisberg made, that he has been able to hang around for a good many years without high productivity. I'm an example of somebody who made it where I am and I have never worked for a very productive office, either. But the offices I've been in tried to ensure quality as we went along.

Mr. EVANS. But there is no disagreement that what the IG found in all three categories, in education, compensation and pension, also on all three categories, is above what is the upper control limit for the applicable standard in that 1982 report and what has changed since then?

Mr. VOGEL. As Mr. Horton said, that was a top-to-bottom review. The IG would take a claim that was first made in 1946 and begin down at the bottom of that claims folder and bring it right to the current time. When the quality check is done in the regional offices, it begins with the issue for review. If it's a reopened claim for a back injury, the review would take it from the date of the reopened claim rather than from the bottom of a 5-inch claims folder. So the IG would find more in a broader review.

Mr. HORTON. There was also a clear reaction to that report from VA management. I remember very well; I was in the field at that time. Those statistics were shared with all the regional office directors. It was pointed out that this was a situation where our own management tools were in effect, being turned around on us. We are always concerned about statistics when they show things have gone awry and we started doing things about them.

Mr. EVANS. Mr. Chairman, I have several more questions. If I have time, I would like to ask them.

Mr. APPLEGATE. Go ahead.

Mr. EVANS. Mr. Vogel, the error rates you provided with your testimony indicate a combined substantive error rate varying between three and 7 percent, that the VA makes over five million adjudications, as you indicated. This means that approximately 250,000 payment errors were made per year. Yet your testimony indicates that only 5,361 decisions are overturned by the BVA.

So, my question is, what happens to the other 245,000 veterans?

Mr. VOGEL. Mr. Evans, in logic, you just put together what is called a non sequitur, an undistributed middle. The fact that there are that many errors, does not mean that you can translate the substantive errors into overpayments or underpayments because the errors may not speak at all to the payment of a benefit. A substantive error does not necessarily affect the payment of a benefit.

Grady, do you have anything to add?

Mr. HORTON. I think that the way we catch errors works. I don't think the Board of Veterans' Appeals hardly ever catches the kind of error that we identify as a substantive error in the SQC process. The Board of Veterans' Appeals workload is primarily concerned with appeals of ratings, for instance, whether service connection is or is not granted.

Substantive and other errors are generally caught in the ways that I mentioned earlier, by the veteran himself telling us, "Look, you didn't pay me the right amount"; by the veterans service officers, by congressional correspondence; and by the next line in the supervision that picks these things up. These types of people are those who catch errors all the time.

Mr. VOGEL. I can give you an example of a substantive error. A veteran makes a claim for service connection for seven disabilities after a long period of service, and one of the seven is flat feet. We have service records; we have a VA exam, if needed. We have all the required evidence. We address six of the seven claimed disabilities, but we fail to dispose of the claimed issue of flat feet. It may be compensable. It may not be compensable. Overlooking the flat feet is substantive error. Most likely, the disability is service-connected, it's zero percent. But that is a serious matter, not to have dealt with every issue that a veteran raises. We would, of course, if we catch that, fix it.

Mr. EVANS. I just wonder if there aren't a lot of veterans falling through the cracks. That is one of my concerns.

Let me ask you if it is possible to get a further larger base of data, because you have provided us with the error rates from the date of February, 1985. The reason I ask—and I make no judgment on this—but there has been some testimony by VA officials in the *NARS* case that there was a so-called "lenient" group of individuals reviewing regional office activities, who took over Central Office field operations in January, 1985, so evaluating that I think would be very useful for us to have a bigger base of data, if you could submit that to the record.

Mr. VOGEL. Mr. Evans, I would be pleased to do that. I don't know how far back our records go, what we have available, but we would be pleased to give you a longer look.

Mr. EVANS. Well, 1980 on, if you have that, would be fine.

Mr. VOGEL. Yes, sir.

[The information appear at p. 132.]

Mr. EVANS. Mr. Ivers, I feel compelled to ask a question about the *NARS* case and the subpena. I would assume that you have had at least some involvement or have worked with the Justice Department in formulating the subpena to the VVA.

Mr. DONALD IVERS. None.

Mr. EVANS. None whatsoever?

Mr. DONALD IVERS. None.

Mr. EVANS. No one in your office?

Mr. DONALD IVERS. I don't know whether anyone in my office was contacted and asked about whether or not the subpena should be issued. To my knowledge, no one was. We were forwarded a draft and told that the subpena was going to be issued.

The Department of Justice represents us. They conduct discovery in the case. We don't control that.

Mr. EVANS. That's the Justice Department attorneys you're talking about?

Mr. DONALD IVERS. That's the Justice Department, yes, sir.

Mr. EVANS. Did you ever have any time to comment or suggest changes or additions in that subpena?

Mr. DONALD IVERS. I did not personally, and I don't believe anyone in my office did.

We were offered the draft subpoena to comment on for a very brief period of time, but we offered no comments.

Mr. EVANS. No comments whatsoever?

Mr. DONALD IVERS. None.

Mr. EVANS. I could give you a copy of this, if you like.

Do you understand what possible basis the 11th numbered request would be concerning the VVA, "documents concerning any proposed revocation of your right to represent claimants in death and disability compensation claims", what the purpose of that was?

Mr. DONALD IVERS. Not specifically, no. I read the draft of the subpena. It appears to me to be very similar to subpenas that were served on other service organizations. I believe that the Justice Department attorneys felt that there was a gap in the information available in this case, which included that information which VVA has or may be able to provide, based on their claims experience and their claims of high success rates with certain types of cases, particularly radiation claims.

As far as I know, our attorneys felt it was necessary in the process of discovery—which is a judicial process, something that VVA themselves hold themselves out as being champions of—it is part of the same process to gather that information for all of those service organizations who are involved to a great degree in claims representation.

Mr. EVANS. Thank you, Mr. Chairman.

Mr. APPLEGATE. Thank you very much, Mr. Evans.

Gentlemen, I thank you very much for coming before the committee and answering some questions. I would tell you that we will be submitting some questions to you. And for those who testified today, we will be submitting some questions to all of you. We will hold the record open for 10 days for the questions to be answered. We appreciate all of you being here.

Before Mr. Doran leaves, I just wanted to recognize former Representative Bryan Doran, who was at one time Chairman of the House Veterans' Affairs Committee. Welcome. It is nice to see you here.

[Applause.]

Mr. DORAN. Thank you, Mr. Chairman. I feel at home in here.

Mr. APPLEGATE. I'll be you do. Today, as you know, is former Members day, so they are having a little bit of a celebration, which they do each year.

Thank you all very much for coming. We will assimilate all of the testimony that we have, put it together, and hopefully it will work to the good of the whole system.

Thank you very much. The meeting is adjourned.

[Whereupoon, at 12:20 p.m., the subcommittee was adjourned.]

APPENDIX

STATEMENT OF HONORABLE GERALD SOLOMON

THANK YOU, MR. CHAIRMAN

I JUST STOPPED BY IN MY CAPACITY AS AN EX OFFICIO MEMBER OF THE SUBCOMMITTEE BECAUSE THIS IS AN IMPORTANT HEARING, AND I WANT TO HAVE THE OPPORTUNITY TO HEAR FIRST HAND AS MUCH OF THE TESTIMONY AS POSSIBLE. I SHARE THE CONCERNS OF THE CHAIRMAN AND THE RANKING MEMBER OF THE COMPENSATION, PENSION AND INSURANCE SUBCOMMITTEE, AND TODAY'S HEARING SHOWS THEIR COMMITMENT TO ENSURING PROPER OPERATION OF THE DEPARTMENT OF VETERANS BENEFITS.

THERE SEEMS TO BE NO QUESTION THAT VA IS SLIPPING IN TERMS OF TIMELINESS OF CLAIMS ADJUDICATION. MR. VOGEL, THE CHIEF BENEFITS DIRECTOR, IN HIS STATEMENT VERY CANDIDLY SAYS SO. ON THE OTHER HAND, MR. VOGEL, WHO I KNOW TO BE A SINCERE AND COMPLETELY DEDICATED PUBLIC SERVANT, ASSERTS THAT QUALITY OF CLAIMS ADJUDICATION IS NOT SLIPPING.

SOME TESTIMONY APPEARS TO DISAGREE WITH HIS ASSESSMENT, AND THIS IS A GOOD OPPORTUNITY TO GET A BETTER HANDLE ON THE PROBLEMS, AND THE OPPORTUNITIES, BEFORE THE COMPENSATION AND PENSION PROGRAM.

THANK YOU, MR. CHAIRMAN.

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accompanied by

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Vietnam Veterans of America

before the

Subcommittee on Compensation and Pension,
Committee on Veterans Affairs

U.S. House of Representatives

May 7, 1987

Mr. Chairman and members of the Subcommittee on Compensation and Pension, Vietnam Veterans of America has been for quite some time on a course of advocacy for fundamental change in the way the VA does business in the Compensation and Pension system.

We have been the primary and sometimes sole advocates for the right of veterans to appeal decisions of the Veterans Administration to a court of law and to retain legal counsel to assist in the pursuit of claims. We have been at the forefront in calling the attention of Congress to abuses by the VA in court procedures in the NARS lawsuit and in pointing out systemic failures uncovered in documents produced through discovery action in that case.

We have paid a price for our vocal criticisms of VA procedures, but we feel obligated to continue our outspoken advocacy of veterans' rights.

We do believe there has been fundamental failure in quality of decision making and due process within the veterans benefits claims processing system. We were as shocked and amazed as anyone in this room at the detailed documentation of these facts which has been floating to the surface in the NARS case. These NARS discovery documents have already been examined by the full Committee and will be considered fully as background in the GAO investigations which are now underway.

In examining the issues of failure in quality and fundamental lack of due process, we believe that no better example exists, particularly of due process violations, than in the recent treatment of neuro-psychiatric disability compensation cases in Puerto Rico and the Virgin Islands. We have dealt with this issue fully in the body of our testimony and have appended a copy of the class action lawsuit which VVA filed in that territory yesterday. In sum, we believe that the wholesale reevaluation of neuropsychiatric disabilities with many hundreds of cases being reduced through the methods used, constitutes a classic example of arbitrary treatment of service disabled veterans.

THE EXAMPLE OF PUERTO RICO

A classic example of arbitrary VA action, with little or no regard for the due process rights of veterans and discriminatory in its application, has recently come back to haunt us.

In this situation there can be little doubt that the VA used its discretionary power in a concerted effort to systematically reduce compensation paid to veterans suffering from long-standing catastrophic emotional disabilities. Such egregious conduct should have never been tolerated, much less encouraged by the House Committee on Veterans Affairs.

When you also consider this whimsical abuse of power was focused not only on the most emotionally impaired veterans but also limited to only those living within the jurisdiction of the San Juan VA Regional Office, a scenario of due process disregard and willful discrimination emerges.

In 1982, at the request of Congressman Mottl, the VA Inspector General conducted an investigation of the San Juan VA Regional Office. This investigation was to determine the reasons for what appeared to be an abnormally high rate of compensation for neuropsychiatric conditions in this specific regional office.

The investigation report generally attributed the high number of neuropsychiatric ratings to local managerial problems in the claims rating process, and suggested a review of individual cases in order to save money. There was no finding of corruption or other malfeasance on the part of VA fee-basis examining physicians.

In rebutting the allegations of managerial deficiencies, the Director of the VA Regional Office cited other reasons, including a higher than normal incidence of neuropsychiatric disabilities in the local population. The VA Inspector General, while noting these allegations as unsupported by demographic data, asserted that such information would be desirable.

Following the Inspector General's investigation, Congressman

Montgomery asked the VA's Department of Veterans Benefits (DVB), to review the IG's findings and to take appropriate action. DVB, without appropriate further study on the unique situation of veterans in the Caribbean, took action to substantively reduce the rates of compensation being paid.

DVB action included the temporary transfer of all adjudicative responsibility from San Juan to the VA Regional Office in Winston-Salem, North Carolina. DVB also dispatched VA Central Office personnel to San Juan to retrain rating board personnel. Simultaneously, the entire psychiatric staff of the local VA Medical Center was replaced.

DVB then began a systematic re-evaluation of all veterans receiving maximum compensation for neuropsychiatric disabilities. This ongoing review, which at its inception included 4,285 cases, has resulted in the psychiatric re-examination of 2,854 veterans. Of the veterans already examined, 784 have had compensation benefits reduced. As a result, total benefit payments have been reduced by over $7 million annually. Many of these veterans, and others, are scheduled for additional examinations.

This headlong rush to reduce the costs of compensation has created an environment that fosters and encourages a disregard for the merits of an individual veteran's case. One such example is that of a Vietnam combat veteran, whose compensation was recently reduced from one hundred to seventy percent.

This Spanish-speaking veteran, was drafted in 1968 and assigned to Vietnam where he served as a light weapons infantryman with the 1st Air Calvary. Approximately one month into his tour of combat duty, as noted in his medical records, the veteran suffered a severe schizophrenic reaction as a result of his inability to communicate with fellow servicemen in combat situations.

Army psychiatric treatment was unsuccessful, and the veteran was subsequently discharged and granted maximum VA compensation for his totally debilitating schizophrenia. In the 16 years between his discharge from service, and his reevaluation under DVB's special program in Puerto Rico, this veteran's VA medical records show a pattern of ongoing treatment for his schizophrenia, with no substantive improvement in his condition.

This veteran, with limited knowledge and abilities with which to challenge the VA, along with his family, must now survive on 46% less income than before. Sadly, this situation has occurred because some statistician determined that this veteran and others were nothing more than a statistical abnormality.

Perhaps the most inequitable example of this re-evaluation is in the very case local VA officials cite as a standard of their fairness. According to them, their review uncovered a case, in which the veteran as a result of a VA rating error not involving fraud on the part of the veteran, had been granted maximum compensation. This error had gone undetected for more than twenty years until the special neuropsychiatric review.

According to local VA officials, they "negotiated a settlement" with the veteran in which they would reduce his/her compensation from one hundred to fifty percent, instead of severing it totally. No such compromises are provided for in law, rules or regulations governing veterans' compensation.

In this VA example of "fairness," the VA clearly exceeded its legal authority by reducing, through settlement or otherwise, the veteran's compensation. Veterans who receive compensation at a sustained level for twenty or more years have statutory protection barring the VA from reducing their rate of compensation.

Once this twenty-year protection is established, the VA cannot reduce compensation, they can only sever it if they can prove fraud on the part of the veteran. In this case, the VA sought an expedient illegal remedy for an embarrassing and costly error it had made. That this action violated the legal rights of the veteran was apparently either never considered or simply ignored.

In undertaking its re-evaluation of neuropsychiatric cases in the San Juan VA Regional Office, DVB apparently concluded that local DVB management and rating board problems were the primary cause for what appeared to be an abnormally high incidence of such cases. Accordingly, it would only seem reasonable and equitable to have exempted from this review those cases adjudicated at other VA Regional Offices.

Local VA officials state that no attempt, in spite of the relative ease with which such cases could be identified, was made to remove from the re-evaluation process, cases of veterans who had had their rates of disability established by other VA Regional Offices.

Many veterans who previously resided and were found to be disabled in Florida, New York, or other stateside areas have, over the years, returned to Puerto Rico. In the depressed economy of Puerto Rico, their fixed VA compensation provides them with a better standard of living than in the states.

This situation may partially explain what appeared to be a comparatively high number of compensation cases in Puerto Rico. Local veterans' leaders, and government officials also suggest that the inequities of past Selective Service policies assured a higher incidence of combat veterans than in other areas.

As an example, many of these leaders note that more than half of the Puerto Rican Vietnam Era veterans actually served in Vietnam, an abnormally high percentage in comparison with other areas. Many of the veterans actually served in combat assignments as their lack of English skills precluded assignment to technical duties. It is credible to expect a significantly higher percentage of combat-related neuropsychiatric disabilities in such a population base.

The VA's review of these cases was flawed from the outset. The simple identification of previously non-resident veterans may have suggested plausible explanations for what appeared to be statistically abnormal. Further study of the population base may have explained the variance in statistical data. The VA simply presumed that what appeared different must be wrong. They applied no reasonable doubt to their own data; and moved swiftly to intrude and adversely impact on the lives of thousands of veterans and their families.

Sadly, many Puerto Rican veterans now feel compelled, as some have recently done, to return to the states in order to secure favorable action to reinstate their previous levels of compensation.

In its review of cases in San Juan, the DVB denied the fundamental due process rights of affected veterans. With cases being adjudicated in Winston-Salem it became impossible for veterans to secure hearings before those who would decide their cases. Local service organization representation of these cases was disrupted, and the triangular relationship between the VA, Service Representative, and veteran was broken.

The passage of time has begun to reveal the capricious and arbitrary nature of the VA's action. Recent statistics provided by the VA Regional Office in San Juan indicate that of the reviewed cases only 36 have been appealed to the Board of Veterans Appeals. Eighty-three percent, 30 of these cases, have been reversed on appeal, which is significantly higher than the BVA's normal rate of reversal which is less than fifteen percent.

The low rate of appeals, just four and one half percent of the total adverse rating actions, does not suggest the review has been appropriate. It does, however, suggest that only the sickest, least able, were singled out and stood powerless before the overwhelming and unchecked power of the VA. This disgraceful conduct, in the name of cost savings, is an undeniable breach of faith with our veterans by the very agency many assert is non-adversarial and always fair and willing to give veterans the benefit of the doubt.

THE TARGET PROBLEM

Many veterans do not have the expertise or necessary skills required to adequately prepare, present, and prosecute their claims before the VA. Therefore, many turn to veterans service organizations for assistance. This assistance is secured through the granting of power of attorney to an organization chosen by the veteran.

The grant of a power of attorney is based on a veteran's obvious or perceived need for assistance. It also constitutes a good faith investment by the veteran that the service organization will actively monitor the VA's adjudication of the claim and provide counsel as deemed appropriate. The success or failure of this triangular relationship between the veteran, the service organization and the VA is dependent on the relationship of each party to the other in regard to information relevant to the veteran's claim.

To assure the sharing of claims-related information, the VA is required by law to provide service representatives with copies of all VA-generated correspondence concerning their clients. The timely receipt of all correspondence concerning claim development, appeals, or proposed adjudicative action in regard to running benefit awards, is crucial if representatives of service organizations are to advise their clients.

The VA Target System is the VA's computer control system for the processing and payment of claims. Recent reductions in DVB staff have forced the VA to both expand and increasingly rely on the already antiquated Target System for automated correspondence functions.

With the vast majority of claim development and claim maintenance correspondence being triggered by this system, it is imperative that a service organization's power of attorney be entered into the VA Target System. Unfortunately, in DVB's speed to increase automated correspondence, little or no attention was given to ensuring that the sharing of claims-related information with service organizations was not disrupted.

Just this week, it was finally announced that the entry of *Powers of Attorney would be mandatory* with the *BIRLS* system. Nevertheless, no attempt is being made or contemplated to reconsider past cases which may have been affected by DVB's failure to provide service representatives with correspondence.

This past February, VVA conducted a survey of the 55 members of the National Association of State Directors of Veterans Affairs (NASDVA). In responding to our survey, the overwhelming majority of the 37 respondents reported serious due process and Privacy act violations resulting from inadequacies of the VA Target System.

Although differing from state-to-state, the state directors of veterans affairs, through reciprocal agreements, provided frontline accredited representation for the following veterans service organizations: The American Legion; Veterans of Foreign Wars; Disabled American Veterans; AMVETS; Jewish War Veterans; Catholic War Veterans; Military Order of the Purple Heart; Non-Commissioned Officer Association; American Red Cross; Fleet Reserve Association; Marine Corps League; Veterans of World War I; Regular Veterans Association; American Ex-Prisoners of War; and Vietnam Veterans of America. Therefore, the results of this survey are indicative of the true problems being experienced by veterans service organizations in trying to assist veterans before the VA.

To those who unrealistically champion the current quality of representation being provided by veterans service organizations by professing; "If it ain't broke, don't fix it;" we offer some examples of reality from our survey:

** 85.71% of the responding state directors reported instances in which veterans' powers of attorney are not entered into the VA Target System.

** 62.16% of these state directors reported at least one of the following major problems as a result of veterans' Powers of attorney not being entered into the VA Target System:

  * Copies of VA-generated correspondence were misdirected or

otherwise not forwarded to the veterans' designated service organization.

This situation leaves the service representative in the precarious position of having to rely on the veteran to provide him/her with copies of VA correspondence. It also leaves the veteran with the incorrect belief that his/her representative will contact him/her or respond for him/her to the VA as necessary.

Also, in this situation, when copies of the veterans' mail is directed to the wrong service organization, a Privacy Act violation and breach of VA regulations occurs.

* Cases in which rating board decisions are referred to the wrong service organization.

  In these cases, the veterans' designated representative is circumvented at the very point in which a decision is made on the claim.

  Again, this situation is a clear violation of the Privacy Act.

* Cases in which the service organization either failed to receive or received delayed notice of VA Regional Office appeal hearings for their clients.

  In these situations the ability of the service representative is compromised by a lack of adequate time in which to review his clients' case for proper appeal preparation.

* Also noted from our survey was the inability of accredited service representatives, not co-located in a VARO, to receive claim information via VARO telephone contact units.

  Quite simply, if the power of attorney is not in the Target System, it appears the contact unit will not release vital information over the telephone to a veteran's representative.

VVA's own research and experience has revealed the VA Target System to be largely unresponsive to due process considerations. We now know that the Target System will not even allow the entry of a Power of Attorney into the system until AFTER a decision is made to award or disallow a veteran's claim.

For years, the veterans organizations have complained to the VARO's and the VACO in a vain attempt to have DVB correct these obvious due process problems. This situation remains uncorrected and the much praised value of service organization representation before the VA remains fundamentally compromised.

Not unlike putting a temporary patch on a long-ago useless rubber innertube, the DVB's position has been to fix individual power of attorney problems when brought to their attention by the service organizations. This "solution," of course, incorrectly assumes that service organizations can readily identify VA activity concerning clients for whom they do not receive copies of any VA correspondence.

IMPLICATIONS:

Many veterans do not have the expertise or necessary skills required to adequately prepare, present, and prosecute their claims before the VA. Therefore, many turn to veterans service organizations for assistance. This assistance is secured through granting power of attorney (POA), to an organization chosen by the veteran. At this point a mutually dependent relationship between the veteran, the service organization, and the VA is established.

In seeking assistance, veterans rely on their chosen representative to provide them with guidance to advance their claim through the VA's bureaucracy. The ability to secure copies of all correspondence forwarded by the VA to the veteran is a key component in the representative's ability to provide the necessary guidance. The VA relies on either the veteran or the representative to advance the claim.

The representative's ability to provide guidance is seriously impaired if he or she does not receive copies of VA correspondence. Too often, if timely advice is not given by the representative, in regard to specific correspondence from the VA, the veteran incorrectly assumes that the representative has taken care to respond for him/her to the VA's letter. In such a situation, the case simply falls by the wayside and it not prosecuted.

VVA believes that the VACO failure to deal with such a basic problem indicates that they cannot control the New York VARO director who wishes to interpret VA regulations to his own liking. Concern for VVA's ability to service its clients is of course secondary to this approach.

VVA'S MAIL PROBLEM

The inadequacy of the VA's Target System has created a particular problem for VVA. For almost two years VVA has sought to resolve reoccurring problems at the New York and Buffalo Regional Offices. VVA mail has been regularly sent to a non-existent address in New York City. That was "remedied" by sending the mail to another address unrelated to VVA in Brooklyn. In addition, the New York Regional Office has refused to send mail relating to VVA claimants directly to their VVA Service Representatives in violation of VA regulations and due process of law.

Other problems are:

1. General refusal to furnish VVA Service Representatives copies of their clients' files in violation of the Freedom of Information Act and the Privacy Act.
2. Failure to enter VVA power of attorneys into Target in some cases resulting in claims correspondence going to other organizations in violation of the Privacy Act.

Repeated letters to the VAROs and VACO for over a year failed to resolve the problem. In February, VVA informed the New York VARO that we would institute litigation unless the matter was resolved. As a result, two separate meetings were held with VVA officials and the Chief Benefits Director and the Director of the Compensation and Pension Service and some of his staff members. VVA thought that a reasonable solution was reached. VVA's letter of February 18, 1987, summarizing this reasonable solution has gone unanswered. There has not even been the courtesy of an acknowledgment of the receipt of the letter.

At these meetings it became clear that the New York VARO Director was extremely hostile to VVA. A package of VVA mail that had been held at the VARO was handed over to VVA. Because the problems concerning the mail are outstanding, VVA became concerned that the VARO might be holding more mail needed by our Service Representatives in that region. A March 17 follow up letter requesting the status of the mail remains unanswered or acknowledged.

The folks on the Third and Tenth Floors of 810 Vermont Ave., NW, like to say that VVA is too litigious. What option is now open to us to solve this problem? The correspondence is attached.

ARBITRARY ACTION - A CASE EXAMPLE

A good working example pointing to VAROs' emphasis on quantity rather than quality is reflected in documents from the St. Petersburg, Florida VARO. The issue concerns the request by a private attorney to have a DM&S examining physician subpoenaed to testify at a rating hearing. The VARO tries to avoid having a DM&S physician and expresses no concern for the adequacy of the development of the case. VACO provided reasonable guidance on the case; however, the central problem is the attitude of the VARO. Unless directed to the contrary a routine case will likely be treated differently. (VACO has issued no general guidance on this issue to our knowledge.) The following language from the VARO memorandum is particularly telling:

1. On November 5, 1986, we received a request from a

private attorney of a veteran to have us subpoena the veteran's treating physician at VAMC Bay Pines to appear at a due process hearing. Our first answer to him was to let him know that we ordinarily do not subpoena the presence of anyone for due process hearings in connection with a claim for benefits. The Attorney, then raised the issue of deprivation of the veteran's due process. . . .

3. We are concerned about the fact that the physician was allowed to appear. In this particular case, the veteran was represented by a private attorney, not a service organization. We believe that a similar request from a service organization would place us in an extremely difficult position. We would be faced with refusing to do something we had already done for someone else, or setting a very undesirable precedent. . . .

4. We are also concerned that if a precedent is set by having a physician from DM&S appear it may have the very negative effect of pitting the opinions of the DVB physician against that of the DM&S physician. . . .

ANOTHER ATTORNEYS ISSUE (INTERPRET)

Historically, most rating boards had attorney members called "legal specialists." Recently, fewer attorneys have been hired to sit on rating boards even though VA regulations and governing statutes have become more complex. The lack of legally trained people at this level may explain the vast disparities in statistics from VARO to VARO.

The Federal Bar Association (FBA), whose membership includes mostly government attorneys, has become concerned about this issue. At its May 1986 meeting, the FBA National Council overwhelmingly passed Resolution No. 86-4, Utilization of Attorneys by the Veterans Administration. The Career Service Section reported to the Council, that, "Virtually every V.A. Beneficiary has to have a rating by the V.A. Rating Board consisting of a physician, a legal rating specialist and an occupational specialist before they are eligible to receive any monetary benefit or participate in a V.A. entitlement program." These boards, the Council was informed, "consider the military records of the veterans, relevant medical and lay evidence, difficult medical evaluations bearing on physical, psychiatric and mental disabilities based on injuries and diseases including date of onset; etc., which require making primary determinations relative to the application and interpretation of the federal laws, regulations and administrative decisions." (Vol. 33 Fed. Bar News p. 403, Dec. 1986).

Robert C. Mueller, an assistant to the Chief Judge of the U.S. Court of Military Appeals, wrote in the December 1986 issue of the Federal Bar News:

> At least since 1963, in most instances the legal rating specialist slots on rating boards have not been filled by lawyers! When the V.A. tried that year to hire attorneys at the GS-5 pay level, they were, predictably, unsuccessful. The V.A.'s response was to change its manual to provide that rating specialists -- legal or occupational -- may be substituted for each other. This V.A. policy must be considered in light of the fact that most veterans are unable to obtain legal representation before the V.A. boards because 38 U.S.C. § 3404 (c)(2) limits representation fees to $10.00. Accordingly, most V.A. ratings are made without any attorney involvement at all, even though veterans' cases are barred from judicial review under 38 U.S.C. § 211(a). Thus, Resolution 86-4 "urge[ed] the Veterans Administration to provide attorneys to

serve the V.A. Rating Boards.

On July 3, 1986, then President Gilbert wrote to Thomas K. Turnage, Administrator of the V.A., and enclosed a copy of Resolution 86-4 and the accompanying report. President Gilbert observed that the V.A. policies invite "decisions which, absent lawyer scrutiny, may serve neither the public interest nor the veterans."

On August 8, 1986, Administrator Turnage responded that, in his view, adopting the step urged in Resolution 86-4 was not necessary. Administrator Turnage asserted that, because regulations that serve as the basis for the evaluation process were "written or approved by professional legal staff," because rating specialists also have at their disposal "numerous other directives and institutional manuals to aid" their decision-making, and because it is possible for the rating board to seek a legal opinion on "unsettled issues" from a legal staffer, legal expertise on the board itself in the routine evaluation process is not necessary.

Are all V.A. regulations, directives, and manuals so clear that they cannot be subject to varying interpretations under varying facts? It is unlikely that they are much better written than statutes and implementing regulations that are the subject of honestly and hotly contested interpretations in our courts.

One additional matter mentioned in the Administrator's letter is interesting: Board members serve at the GS-12 pay level. Considering the number of lawyers who currently serve in the Federal Government at a level of GS-12 or below, can it fairly be said today, as in 1963, the V.A. could not successfully recruit adequate numbers of attorneys for V.A. rating boards?

OTHER ISSUES IN CLAIMS PROCESSING

a. ADMINISTRATIVE DISALLOWANCE

The procedure that used to be called "records purpose disallowance." We at VVA recognize that the VA has changed the name of the procedure; nonetheless a disallowance is still a denial and we believe the process is in violation of the law.

We at VVA acknowledge that in February 1987, the VA distributed Change 430 (back-dated to November 25, 1986), to its Adjudication Procedures Manual, M21-1. For the first time, Change 430 requires that the VA notify a veteran that his claim has been denied for failing to provide requested evidence within 60 days as requested. The VA refers to this as a denial for "Failure to Prosecute."

The 60-day period within which the veteran was to have provided evidence is a totally arbitrary and phony figure made up by the VA. It is a fiction that creates unnecessary confusion and should be disallowed. Instead the VA should use the one-year deadline set by statute and fully inform the veteran of that date in all correspondence with him/her.

Instead of denying a claim after 60 days, VA should simply send a followup letter that the claim filed on "X" date is considered incomplete because the certain information was not supplied (VA must be specific about what is still needed to make the application complete). That letter should also inform that veteran that failure to provide the requested information by "Y" date means that no benefits can be paid on that application. Reference: 38 U.S.C. 3003(a).

In fact, the VA manual tells VA employees that followup letters need not be sent!

Congress established a liberal period of time within which the veteran can submit necessary evidence. The VA, through unpublished, non-regulatory, and basically secret procedures, completely disregards the plain language of the law.

The steps outlined in Change 430 are in the right direction in that they provide that notice of a disallowance will be provided to the claimant. As we noted above, that is not sufficient. Nor is it sufficient that only veterans with claims currently before the VA be affected. Tens, if not hundreds, of thousands of applicants have been affected over the years that the VA procedure of secretly denying claims has been in place.

There must be action taken to help those who have been hurt. Such action can await a federal judge ordering it or the VA can own up to its mistakes and take appropriate action itself. VVA recommends the VA publicize to all service organizations its defective practice and offer a period of time within which any claims administratively disallowed be reconsidered with the effective date retroactive to original claim. The VA should prepare and widely distribute a press release describing new procedures and inviting veterans who have applied in the past but who never got a reply, to reapply.

We believe the VA has the capability to develop computer programs to identify those potentially adversely affected persons. Every effort should be made to send personal letters to each. Finally, the VA should publish in the Federal Register (for all to see) its intention to conduct a rulemaking on this subject.

b. QUALITY REVIEW EXPECTION SHEETS

The VA Regional Office conduct a limited review of the quality of their own work. In 1982, the VA Inspector General found serious shortcomings in that self-examination process and discovered that the actual numbers of errors far exceed what was being reported.

The VA Central Office reviews a sampling of case from Regional Offices. When it discovers an error, the error is documented on a VA form. That form is returned to the VA regional office. Those forms are maintained by the VA regional office but neither the forms nor any reference to their existence is included in the affected veterans' claims folder.

If the error is considered "substantive" the regional office must take corrective action-or may argue about the error call. Errors of judgment or procedural errors are not required to be corrected. Evidence in some site surveys of certain Regional Offices shows that not all substantive errors have been corrected as required.

VVA believes veterans have a right to know that a review of their claims folder has occurred and that VA officials believe errors were made in processing it. It is true that certain errors could result in a decrease in benefits because an error was made in favor of the veteran. It is also true that a finding that an error in judgment occurred could form the basis for an appeal to the Board of Veterans Appeals.

As it currently stands, the VA may be violating the Privacy Act for maintaining this secret file. The VA certainly is treating veterans unfairly to withhold information that may permit a successful appeal.

c. VA REGIONAL OFFICES NOT TIMELY INFORMED OF PROCEDURES GENERAL COUNSEL IDENTIFIES AS VIOLATING THE LAW

On July 29, 1986, in an unpublished opinion to the Chairman of the Board of Veterans Appeals, the VA General Counsel confirmed that a provision of the VA Adjudications Procedures Manual, M21-1, violated the law and regulations. This provision has caused pension recipients to be unfairly assessed an overpayment.

Almost as distressing as the process that would allow such a plainly illegal provision to be included in M21-1 is the fact that the manual provision remains unchanged to date.

Following a formal request from VVA to the General Counsel to determine what steps if any had been taken to correct the situation, the General Counsel denied any responsibility in the matter and referred the request to the Chief Benefits Director. On March 19, 1987, almost eight months after the General Counsel had identified a serious violation of law, the Director answered that a teletype is being sent to all situations and that a future change to M21-1 would correct that error. VVA does not know whether such a teletype was sent. To date, VVA has not received any change to M21-1 that indicates the problem has been corrected.

Worse, the Director denies that the VA is able to use its computerized "disallowed or terminated master records" to identify the affected individuals. VVA believes, however, that a letter should be sent to current and former pension recipients, informing them of the situation. Certainly, a special review of overpayment cases should be conducted to identify this class of debtors before referral to the Department of Justice for litigation, to the Internal Revenue Service for tax refund intercept, to consumer reporting agencies or to private debt collectors.

d. INADEQUATE NOTICE PRIOR TO TERMINATING PENSIONS

VA pension recipients must be among those veterans least able to afford a bureaucratic run-around. Still, for the past 12 years legal aid attorneys have been doing battle with the VA over the adequacy of the notices sent to pensioners the VA has decided to terminate or reduce. The most recent episode of legal aid attorneys having to step in protect this group of veterans resulted in the VA being forced to sign a consent decree in April 1987. Semenchuk v. Walters, No. 84 C 3132 (N.D. Ill. consent decree April 8, 1987).

Originally filed in 1983, by the Prairie State Legal Services of Geneva, Illinois, the suit mimics the relief ordered in 1975 in Plato v. Roudebush, 397 F. Supp. 1295 (D.Md. 1975). Because Plato was a national class action, it should have ended the problem of the VA not telling veterans they were no longer to receive pension or failing to tell them they could obtain a hearing prior to termination. However, the problem persisted and in 1982 legal aid attorneys in Minnesota successfully sued the VA to force it to apply Plato to that state's veterans. Bedgood v. Cleland, No. 4-80-596 (D. Minn. July 29, 1982). Now, twelve years after Plato, legal aid attorneys have forced the VA to given Illinois veterans their constitutionally-protected rights. For the next ten years, a federal district court judge will have jurisdiction over the Chicago VA Regional Office processing of pension cases to ensure compliance with the court decree. Unfortunately, VA regulations continue to be inadequate in this area. To date, none of the legal aid lawsuits has succeeded in requiring the VA to undergo a public rulemaking proceeding to promulgate regulations that are needed. Continued careful monitoring by legal aid offices and veterans advocates will be necessary to ensure the informal procedures required by these lawsuits are followed. It would not be surprising to see additional suits filed over this matter.

FURTHER INQUIRY

It is clear that Congressional hearings are useful to hit the high points of potential problem areas. However, they are frequently inadequate to resolve complex and technical questions concerning VA claims adjudication. While veterans' service organizations can express organizational views, it would be instructive to survey those veterans advocates "on the front lines."

VVA proposes that a survey of all county, state and service organization service officers be undertaken to determine whether there are any complaints about the fairness or perceived fairness of the VA claims adjudication system. To avoid any claims of bias, we recommend that the survey be conducted by an entity independent of the VA and that this Committee recommend that money be appropriated for this purpose.

CONCLUSION

Mr. Chairman, Vietnam Veterans of America is a very young organization. As such, we are only now in the embryonic stages of building a service representative network. Instead of relying on input on quality and due process from our service representatives, few of whom work full time, and even fewer still of whom are stationed at VA regional offices, we have relied on the VA's own internal documents and the word of other highly qualified professionals who have spent years working within the VA system.

From these reliable and knowledgeable sources, we have come to the unshakable conclusion that serious deficiencies exist throughout the VA compensation system. The overriding concern of VA policy makers appears to be perpetuating the status quo, often at the expense of the veteran.

No greater example of this mindset exists than the VA's reaction to criticism. When problems are highlighted, the VA's immediate response is not to investigate the concerns or attempt to resolve the problem, but rather to lash out at those who brought the problems to light. The VA has recently stepped up its attacks on outside organizations critical of the VA. Just this week, VVA was served with a massive and overreaching subpoena in the NARS case; the clear intent of which is to harass and intimidate in an attempt to silence our criticism.

This internal hostility to change within the VA heightens the need for strong and vigilant congressional oversight such as this hearing. We therefore applaud the Chairman of this Subcommittee, the Honorable Douglas Applegate, for calling this hearing, and we would like to thank the members of this Subcommittee for the opportunity to appear before them today to present our views on this vital issue.

Vietnam Veterans of America, Inc
2001 S St., NW
Suite 700
Washington, DC 20009-1125

(202) 332-2700

May 12, 1987

Congressman Douglas Applegate, Chairman
Sub-Committee on Compensation, Pension and Insurance
House Committee on Veterans Affairs
U. S. House of Representatives
2183 Rayburn House Office Building
Washington, DC 20515-3518

Dear Chairman Applegate:

During recent hearings, before your Compensation, Pension and Insurance sub-committee of the House Committee on Veterans Affairs, you and the Minority Staff Counsel directed several questions to me in regard to this organization's testimony.

As we recall there was concern with the following sections of our testimony:

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You asked for information concerning the case of the Spanish speaking veteran, who was found disabled as the direct result of a psychiatric disability evoked during combat.

Response

Enclosed are copies of the initial VA Rating Decision and Report of Separation and Discharge, concerning the veteran in question.

The documents concerning Mr. Ruben Santiago Mercado's case are self-explanatory. Due to the VA's possibly illegal conduct in this case, this veteran is a named plaintiff in the class action complaint filed last week in Puerto Rico by this organization.

Page Five

You asked for the name of the veteran and documents in regard to the case of a "negotiated compensation settlement." Minority Counsel questioned the truthfulness of this portion of our testimony.

★ A not-for-profit national veterans service organization ★

Response

As indicated at the hearing, we neither know this veteran's name nor have documents relevant to his case. Information concerning this case was, as clearly noted in our testimony, reported to us by VA Regional Office officials in Puerto Rico.

On March 27, 1987, a VVA delegation met with Mr. Martinez, Assistant Director, and Ms. Ramos, Adjudication Officer, of the VA Regional Office in San Juan. Our intention in meeting with VA officials was to determine the number and disposition of neuropsychiatric cases reviewed as ordered by VA Central Office.

Accompanying me during this meeting were Mr. Stichman, VVA's Director of Litigation, Mr. Smith, VVA's Assistant Membership Director, Mr. Mendez, VVA Chapter 59 President, and several local VVA members who had been adversely affected by the VA's recent actions in Puerto Rico.

Mr. Stichman and I have extensive experience in working with veterans before the VA. We have co-authored several books on veterans' advocacy and rights. In response to direct questions, both Mr. Martinez and Ms. Ramos were candid in their remarks about the increased workload and problems resulting from the reevaluation of neuropsychiatric cases in San Juan.

During this meeting, I questioned the fairness of across the board reevaluations. In the discussion that followed, the case recounted in our testimony was used by Mr. Martinez as an example of "fairness."

Categorically, we stand by this portion of our testimony as an accurate representation of a case situation articulated to us by VA officials during our meeting with them on March 27, 1987.

Minority Counsel, during questioning before your committee, openly questioned my honesty in regard to this incident. He indicated that a telephone call had been made to Ms. Ramos during which she stated that no specific cases had been discussed during the March 27, 1987 meeting. During Mr. Vogel's testimony later in the morning, it was noted that after several other calls to San Juan it had been learned that individual cases had been discussed during the meeting.

As an elected national officer of this organization, I wish to express strong disappointment in having my honesty questioned by Mr. Wilson. As you will recall, Mr. Stichman and subsequently the VA, corroborated this incident during the hearing. A written apology from Minority Counsel is both appropriate and expected in our view.

Page Seven

Mr. Wilson also challenged the validity of statistical information about appeals.

Response

During the March 27, 1987 meeting in San Juan, Mr. Martinez, in illustrating the volume and disposition of cases, shared a computer printout with us. A copy of this printout, which substantiates our testimony, is attached for your information.

Minority Counsel presented statistics from the Board of Veterans Appeals indicating a lower appeal rate than that indicated in our testimony. We stand by our statistics, as supplied by the San Juan VA Regional Office. However, we note that Mr. Wilson's statistics also confirm our argument that just a few of the sickest and least able have been able to mount appeals in these adverse rating actions.

We thank you for holding these hearings on issues of quality, timeliness, and due process considerations in the adjudication of veterans's claims before the VA. If you have any further questions we will of course be happy to respond.

Sincerely,

Richard E. O'Dell
National Treasurer

Encls.

STATEMENT OF
RICHARD F. SCHULTZ
ASSOCIATE NATIONAL LEGISLATIVE DIRECTOR
DISABLED AMERICAN VETERANS
BEFORE THE
SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
OF THE
COMMITTEE ON VETERANS AFFAIRS
OF THE
U.S. HOUSE OF REPRESENTATIVES
May 7, 1987

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the more than one million members of the Disabled American Veterans and its Ladies' Auxiliary, I am pleased to appear here today to present the views of our organization on the subject of timeliness and quality of processing claims for compensation and pension in Veterans Administration regional offices.

At the outset, Mr. Chairman, I wish to commend you and the members of the Subcommittee for holding this oversight hearing. Clearly, this reflects the sincere interest and concern of the Subcommittee for the manner in which our government provides compensation and pension benefits to our nation's disabled veterans, their dependents and survivors.

As you know, Mr. Chairman, the DAV's primary interest is in the welfare of America's service-connected veterans and their families. However, DAV services are not restricted solely to service-connected veterans, as we do offer counseling and representation to all veterans, their dependents and survivors, in any claim they may pursue for benefits administered by the Veterans Administration.

In order to provide service to our nation's veteran population, the DAV employs some 246 full time, professionally trained National Service Officers (NSOs) located in 67 offices throughout the country. DAV NSOs are physically located in or regularly visit VA regional offices and medical centers to provide representation to those veterans who desire our services. To insure that each individual VA claimant receives complete and thorough DAV representation throughout the claims processing system, the DAV also maintains a National Appeals Office here in Washington, D.C.

Mr. Chairman, as you know, "The mission of the Veterans Administration is to serve America's veterans and their families with dignity and compassion and to be their principal advocate in ensuring that they receive the care, support and recognition earned in service to this Nation." Also, the VA's Department of Veterans Benefits (DVB) is charged with the responsibility of ensuring "that an appropriate level of benefits is provided within the law to eligible veterans and beneficiaries."

In order to determine how well the VA is living up to its commitment to our nation's veterans, in terms of quality and timely compensation and pension determinations, we solicited the views of 20 of our National Service Offices. These ranged in size from an office staffed by one NSO to an office with 11 NSOs, as well as our National Appeals Office located at the Board of Veterans Appeals here in Washington, D.C.

Generally speaking, our NSOs reported that the vast majority of VA employees are genuinely committed to providing the maximum compensation and pension benefits allowable by law to our nation's disabled veteran population and their families.

However, without exception, our NSOs hastened to add that there are a number of concern which they believe affect both the quality and timeliness of VA compensation and pension determinations. These areas include:

* the steady decline in the number of DVB employees over the past several years;

* delays in receiving service medical records;

* long delays in receiving inpatient and outpatient reports from VA medical centers;

* length of time it takes to obtain a VA compensation and pension examination;

* the VA's preoccupation with end products;

* production standards for VA adjudication personnel;

* the inadequacy and over-reliance on pattern letters; and

* the impersonal nature of computer-generated correspondence.

With your indulgence, Mr. Chairman, I would like to discuss these and other issues affecting quality and timeliness in VA claims processing.

DVB STAFFING

Since 1979, the VA's Department of Veterans Benefits, has experienced a 30% reduction in staffing at VA regional offices nationwide. One VA regional office surveyed by a DAV National Service Officer revealed a 43% reduction in DVB personnel with a corresponding decrease in workload of only 14%. Simply put, DVB employees at this regional office have been asked to produce nearly 30% more work today than was performed by employees in 1979. While this regional office certainly represents one of the worst cases we encountered, it does, however, represent the general state of affairs for VA regional offices across the country -- a state which must be addressed and corrected in order to relieve the unrealistic workload demands placed on DVB employees.

Mr. Chairman, we understand the need to control the spiraling federal deficit and we have supported some Congressional efforts to accomplish this goal. However, we do not believe the Administration has given due consideration to the number of employees necessary to produce quality and timely decisions which materially affect the lives of our nation's veterans and their families.

DELAYS AFFECTING CLAIMS PROCESSING

As you know, Mr. Chairman, an original compensation claim requires certain documents and evidence in order to establish service-connected status, as well as the degree of disability. Certainly, service medical records are critical in this process. Without exception, our NSOs report that, in varying degrees, veterans' compensation claims are being unduly delayed -- sometimes up to a year -- while awaiting receipt of service medical records.

Mr. Chairman, a recent General Accounting Office (GAO) study has brought to light several problems regarding the timely delivery of service medical records from military personnel record centers to VA regional offices. We have learned that, as a result of the GAO findings, the VA and record center officials have taken action to improve response time. These corrective actions include:

- * The Army plans to eliminate the need for VA to resubmit requests when records are still in transit from separation processing offices to the Army Personnel Records Center. An automated process will hold all initial requests and provide the medical records to the VA when they become available.

- * The VA plans to send the National Archives and Records Administration's National Personnel Records Center (NPRC) an automated tape of all VA regional office requests for medical records. These requests are currently mailed to NPRC. This process will save three to five mailing days and reduce lost or misrouted requests.

- * NPRC plans to enter manually prepared requests to its data base and match them with the VA-provided tape to identify duplicate requests. This will improve NPRC processing capabilities and expedite responses to the VA.

We applaud these efforts and certainly hope actions by the VA and military personnel records centers prove successful in providing a more timely response to VA requests for service medical records.

However, another area of concern among DAV NSOs relates to the length of time it takes to receive inpatient and outpatient reports and VA examinations from VA's own medical centers. Far too many compensation/pension exams take up to seven months and, in some cases, as much as one year to be returned to VA Rating Boards by VA medical centers. Also, receipt of hospital reports and outpatient records are delayed anywhere from two weeks to six months before reaching VA Rating Boards. Obviously, these long delays place many veterans in financial hardship -- especially those veterans who are unemployed or hospitalized by reason of their service-connected disabilities and veterans who are dependent on the receipt of VA compensation payments to provide for themselves and their families.

Mr. Chairman, the problems of timely receipt of VA examinations and hospital records from VA medical centers is not new. Far too many problems remain, given VA's attempts to correct these delays.

Possibly, one solution to the timeliness problem might be to establish a system whereby VA regional offices and VA medical centers can communicate via computer systems. This, we believe, will decrease the necessity of time-consuming written and telephonic communications.

END PRODUCT MEASUREMENT

Mr. Chairman, the VA system of measuring the timeliness of VA claims processing (often referred to as the "end product syndrome") is one of the most troublesome issues faced by VA regional office employees and DAV National Service Officers, as well. End products are established in the VA computer system (TARGET) for each claim received at a VA regional office. Essentially, end products measure the time it takes to complete claims and also acts as a diary system to maintain control of VA claims. Additionally, as I will discuss later in this statement, regional offices use this end product system to measure the productivity of their employees.

In responding to our request for information, these DAV National Service Officers obtained timeliness information from their respective VA regional offices. This information revealed that the average time to process an original compensation claim ranges from 100 to 180 days and reopened claims take anywhere from 60 to 100 days to complete.

In an effort to determine the accuracy of VA statistics on timeliness, one of our National Service Officers randomly reviewed 14 reopened claims for increased compensation. When a VA exam was conducted, the review disclosed that the average number of days to process this type of claim was 178 days. This is fully 83 days longer than the statistics provided by the regional office. The total number of days required to complete a reopened claim -- where hospital records were obtained -- was 156 days...61 days longer than the average time reported by this VA regional office.

We are not questioning the VA's statistics on timeliness, rather, we wish to demonstrate that by only noting the average number of days it takes to process a broad category of claims does not truly reflect the length of time that some reopened claims take to be processed. The delays noted in the two examples cited, for the most part, affect eligible veterans who are most urgently in need of timely processing of their claims for replacement of lost income due to service-connected disability.

To comment further on the VA system of establishing end products, it is significant to note that end products may be taken at different times on claims which have the same end product, based on the circumstances in each individual case. For example, an original compensation claim may be quickly disposed of where it is established that the veteran has a bad discharge; service medical records are submitted with the claim; and in those instances when a veteran fails to report for a VA examination or submit evidence requested by the VA. In those compensation claims where it is necessary to obtain service medical records and complete a VA examination, obviously it takes much longer than the average time stated by the VA for original claims.

Similarly, reopened claims vary according to type and the need for development. Examples of speedy reopened claims include: a claim received with sufficient medical evidence (no VA examination is needed); or a claim received with the necessary documentation to establish an additional dependent for compensation or pension payments. Reopened claims which take much longer include those claims which require a greater degree of development -- such as requesting VA examinations or VA hospital reports.

ADMINISTRATIVE DISALLOWANCE

Mr. Chairman, a procedure known as administrative disallowance (also referred to as a record purposes denial) is an additional concern to the DAV. As you know, this is another means by which the VA measures the timeliness of their claims processing activities. This is a process whereby claims are disallowed when veterans fail to comply with the VA's request for additional evidence (generally 60 days).

The DAV fully understands the necessity of establishing a system to measure the timeliness of VA claims processing. However, for the reasons stated, we view such measures with skepticism.

Possibly, a system that would further break down original and reopened compensation/pension claims into additional categories would provide a clearer picture of the length of time it takes to process claims. It might well relieve pressure on DVB personnel to work for veterans rather than end products.

BOARD OF VETERANS APPEALS

Recognizing the necessity to assist the Board of Veterans Appeals (BVA) in decreasing the long delays in processing veterans' appeals, Congress took action which resulted in the passage of the Public Law 98-223. This Public Law, among other things, increased Board membership from 50 to 65, representing a 30% increase in Appeal Board members.

Mr. Chairman, Board of Veterans Appeals statistics reveal that veterans continue to disagree with VA decisions in increasing numbers. Fiscal Year 1986 figures show an increase of more than 2,500 Notice of Disagreements over Fiscal Year 1984. Also, BVA workload data shows that appeals received in Fiscal Year 1986 is nearly 22% higher than Fiscal Year 1979 and response time in forwarding veterans' substantive appeals to BVA has more than doubled (to more than six months) since 1979. These increasing delays in veterans' appeals have occurred during a time when VA regional offices have experienced an average reduction of nearly 30% in DVB employees, as noted earlier.

Again, we must point to the loss of DVB employees and the Veterans Administration's emphasis on end products as a major reason for these disturbing BVA statistics.

PRODUCTIVITY STANDARDS

Mr. Chairman, of the concerns voiced by DAV NSOs, as well as VA employees, the greatest concern surrounds the VA's productivity standards set for DVB personnel who are charged with the responsibility of making decisions on veterans' claims for compensation and pension benefits.

While we do not point an accusing finger at anyone, we must however point out that the system of evaluating performance of Rating Board personnel may be subject to misuse or abuse by individuals in an effort to achieve their end products. For example, a Rating Specialist may take the easy way out by preparing a handwritten confirmed and continued rating rather than dictating a more time-consuming typed rating. Also, a Rating Specialist may stockpile certain, less time-consuming ratings for a period when he/she needs to reach quota.

One final observation on this issue, Mr. Chairman. We have been made aware of a pattern that exists at one regional office where Rating Boards are reluctant to schedule a VA examination when a veteran has reopened his claim for an increased evaluation. For example, in several cases, veterans had not been afforded a VA examination in the previous ten years and, in one case, the last VA examination was more than 40 years ago. This practice results quite often in a Board of Veterans Appeals remand for a current VA examination, consequently resulting in additional needless delays in the veteran's claim.

The DAV's concern surrounding the VA's method of evaluating Department of Veterans Benefits adjudication employees' productivity and their reliance on end products is no more evident than the following example:

> The supervisor at one of our National Service Offices expressed his frustration in dealing with the Rating Board by indicating that he "never thought he would see the day when he would argue an end product with a Rating Board." He went on to describe how he had taken an unpromulgated rating (a rating in which administrative action had not yet been taken to input the decision) back to the Rating Board

requesting that they reconsider their decision based on additional evidence he wished to present to them. In reply, the Rating Board informed this NSO that they would not reconsider the rating, as they needed the end product, further indicating that the veteran could either reopen the claim or appeal the decision -- both options causing a needless delay in the veteran's claim. This same NSO has also advised us of a recent incident where a quality Rating Board Specialist with considerable rating experience decided to terminate his employment, rather than sacrifice quality as a result of the constant pressure to produce end products.

STATISTICAL QUALITY CONTROL

Mr. Chairman, another area of concern to the DAV is the VA's quality review system. This system, known as "Statistical Quality Control" (SQC), is designed to keep adjudication and Rating Board personnel technically proficient in quality processing of VA claims. While we applaud the VA for its quality control efforts and firmly believe they can work, we also realize that until the VA relieves the undue pressure being placed on DVB employees to produce more and more end products, problems such as those previously discussed will continue to increase and the morale of DVB employees will continue to decline.

* * *

Mr. Chairman, the observations and statistics provided in our statement disclose several very important points:

1. DVB employment levels have decreased significantly over the past decade without a corresponding decline in workload.

2. The VA's emphasis on end products, as well as production standards, negatively affect quality.

3. Timeliness in obtaining evidence necessary to adjudicate veterans' claims from military and VA medical centers needs to be improved.

4. The time it takes for regional offices to forward veterans' appeals to the Board of Veterans Appeals has substantially increased.

5. While Board of Veterans Appeals employment levels have increased significantly in order to keep pace with their increased workload, backlogs continue to grow.

These intolerable situations can and must be solved.

Mr. Chairman, the answer to providing veterans' quality and timely service is, in our opinion, quite simply, additional FTEE and additional funding.

Mr. Chairman, the time has come to alleviate the conditions which place end product pressures on VA personnel to produce more, more and more. It is now time to return the emphasis to quality and timely VA benefit determinations. The system must serve veterans, not the system.

This concludes my statement, Mr. Chairman. I again wish to thank you and the members of this Subcommittee for holding today's hearing on these most important matters.

OPENING STATEMENT
HONORABLE MICHAEL BILIRAKIS
MAY 7, 1987

THANK YOU, MR. CHAIRMAN.

THIS HEARING ON THE QUALITY AND TIMELINESS OF VA CLAIMS PROCESSING IS ITSELF EXTREMELY TIMELY AND I COMMEND YOU FOR HOLDING IT.

I SENSE A GREAT CURRENT OF DISSATISFACTION AMONG VETERANS ACROSS THE COUNTRY, AND PARTICULARLY IN MY OWN DISTRICT IN FLORIDA, OVER THE EXTREME DELAYS BEING EXPERIENCED IN CLAIMS PROCESSING. HOWEVER, I SENSE THAT THEIR CONCERN IS NOT MERELY OVER THE DELAYS. THERE ARE ALSO SERIOUS QUESTIONS BEING RAISED BY SOME VETERANS ABOUT THE VERY FAIRNESS OF THE VA'S CLAIMS ADJUDICATION PROCEDURES, APART FROM THE ISSUE OF TIMELINESS.

THESE PROBLEMS ARE EXACERBATED, IT SEEMS TO ME, IN PLACES LIKE FLORIDA WHERE THE GROWING VETERAN POPULATION IS PUTTING INCREASING DEMANDS ON A SYSTEM ALREADY STRETCHED BEYOND THE LIMIT. THE PROBLEMS ARE ALREADY SERIOUS. BUT THEY WILL GET EVEN WORSE UNLESS SOME FAIRLY DRASTIC STEPS ARE TAKEN, AND SOON.

IN LOOKING OVER THE TESTIMONY TO BE PRESENTED TODAY, I AM DISAPPOINTED TO SEE THAT THE STATISTICAL DATA CONFIRMS THE SERIOUSNESS OF THE DELAYS IN CLAIMS ADJUDICATION THAT WE HAVE ALL BEEN HEARING ABOUT BACK IN OUR DISTRICTS. WE KNOW THERE ARE PROBLEMS. WHAT WE NEED TO DO NOW IS TO FIND SOLUTIONS.

I LOOK FORWARD TO THE TESTIMONY AND WOULD HOPE THAT OUR WITNESSES CAN PROVIDE US WITH SUGGESTIONS FOR SOME CLEAR AND EFFECTIVE STEPS THAT CAN BE TAKEN TO REMEDY THE PRESENT CRISIS.

THANK YOU, MR. CHAIRMAN.

May 20, 1987

MEMORANDUM

TO: VVALS

FM: Julie Trotter

RE: UPDATE--DISTINCTION BETWEEN NARS DEPOSITION NOTICES ON OTHER SERVICE ORGANIZATIONS, AND DEPOSITION NOTICE SERVED ON VVA

This Memorandum will attempt to show the differences and similarities between the depositions served on other organizations and the deposition served on VVA.

There were two basic versions of depositions served on the other service organizations: June 1986 deposition ("6/86"), and March 1987 deposition ("3/87"). These depositions were served on the American Legion ("Legion"), AmVets, VFW, and Disabled American Veterans ("DAV"). The 6/86 depositions served on the service organizations were virtually identical. Although the 3/87 depositions differed in some respects as to each organization (namely, based upon information obtained at the earlier depositions), they were identical in most respects and will be considered so for the purposes of this memorandum.

Below, I compare each paragraph of the deposition notice served on VVA with the deposition notices served on the other organizations. I have attached hereto copies of the 6/86 deposition notice served upon all the organizations, and the 3/87 notice served upon AMVETS, and will refer to these depositions notices in this Memorandum. The underlined heading refers to the corresponding paragraph in the deposition served on VVA. The numbers in parentheses correspond to the paragraphs in the deposition notices served on the other organizations.

Paragraph One. This paragraph requests copies of all communications between VVA and NARS, any plaintiff in the lawsuit, or any subsidiary or other individual or corporation associated with NARS, including attorneys. This is not restricted to communications about the lawsuit, but includes all communications.

There is nothing in the depositions served upon the other service organizations that is similar to this request.

Paragraph Two. This paragraph requests copies of all communications between VVA and "any other individual, organization, or government department body" concerning the NARS lawsuit, any of the matters discussed in the complaint (which reviews the entire VA compensation system), the $10 fee limitation, legislation to change that fee limit, or the representation of claimants by VVA or others in all types of Death and Disability Compensation claims.

The 6/86 deposition notice on the service organizations asks for communications between the organization, the VA, its membership, or other service organizations concerning the fee limitation, attorney representation of veterans in ionizing radiation claims, and legislation to change the fee limitation (1).

The 3/87 deposition notice is more broad in that it asks for all documents (including magazine articles) on the effects of attorney representation and judicial review (19, 21).

The notice served on VVA is wider in scope in that it asks for communications regarding the NARS suit, and communications regarding any of the matters raised in the complaint (i.e., the entire VA compensation system). Otherwise, the requests are similar.

Paragraph Three. This paragraph requests copies of all guidelines, instructions, information, forms, etc., that address or concern how to handle Death and Disability ("D&D") claims, and Ionizing Radiation ("IR") claims. It also asks for information regarding the circumstances in which individuals are referred to VVA, represented by VVA, referred out by VVA, or handled by VVA, for D&D claims and IR claims. It also asks for information concerning the scope and nature of such representation.

The 6/86 deposition notice asks for documents concerning the factual and legal development of IR claims (2a). The 3/87 deposition notice asks for documents regarding the manner in which IR claims should be handled (17).

The notice served on VVA is wider in scope because it asks for much more extensive information on the circumstances in which VVA takes cases, and the scope and duration of such representation. It also is not limited to IR claims.

Paragraph Four. This paragraph asks for forms or information sent to individuals who have sought VVA representation in D&D claims.

Paragraph Five. This paragraph asks for forms or information sent to individuals who have sought VVA representation in IR claims.

There appears to be no corresponding request on the service organizations.

Paragraph Six. This paragraph asks for statistics on D&D claims.

Paragraph Seven. This paragraph asks for statistics on IR claims.

Both the 6/86 (2b) and 3/87 (1 through 5) deposition notices ask for statistics on the number and types of claims handled by the service organization, including the disposition of each.

Paragraph Eight. This paragraph asks for all publications issued by VVA.

The 3/87 notice asks for magazine and other publication articles, but only regarding ionizing radiation, judicial review, and the effect of permitting attorney representation (19, 21).

The deposition notice on VVA is wider in scope in that it asks for all publications, and not just on limited topic.

Paragraph Nine. This paragraph asks for documents indicating the revocation, termination or modification of any Power of Attorney in a D&D claim, or the reasons therefor.

The 3/87 deposition notice asks for documents concerning refusals by the service organization to represent a veteran or veterans or other claimants (29).

Paragraph Ten. This paragraph asks for comments VVA has received concerning the quality, scope, or duration of representation provided by VVA in D&D claims.

The 6/86 and 3/87 deposition notices ask for information on actions for malpractice and other complaints against the service organization concerning the lack of quality or competency of the services rendered in all cases (3).

Paragraph Eleven. This paragraph asks for documents concerning any proposed revocation of VVA's right to represent claimants in D&D claims.

There is no corresponding request to the service organizations.

Paragraph Twelve. This paragraph concerns documents that address or concern the training of service representatives. (It does not specify VVA service representatives.)

The 6/86 deposition notice asks for information on training programs and materials concerning the handling of IR claims (2e).

The 3/87 deposition notice asks for information on the portions of training exams given to service representatives concerning IR claims (25).

Paragraph Thirteen. This paragraph asks for lists that identify all individuals who have assisted one or more claimants in considering, submitting, or presenting D&D claims.

The 6/86 deposition notice asks for the identity of all service representatives who have assisted veterans in evaluating or submitted IR claims (9).

The 3/87 asks for documents showing the names of service representatives who are attorneys (12).

The request on VVA is much broader in that it does not limit its request to VVA service representatives, and it does not limit its request to IR claims.

Paragraph Fourteen. This paragraph asks for lists of individuals VVA has represented in IR claims.

There is no similar request to the service organizations.

Paragraph Fifteen. This paragraph asks for lists identifying experts available in the development of IR claims.

The 6/86 deposition notices asks for the names of experts used by the service organization in IR claims (2c).

The 3/87 deposition notice asks for the curriculum vitae of physicians employed by the service organization (30).

Paragraph Sixteen. This paragraph asks for all documents that discuss or address the content of any of the documents described above.

Although the deposition notice on VVA is much wider in scope in certain areas, as noted above, it should also be recognized that the deposition notices served on the service organizations include many topics that were not covered in VVA's notice, including (6/86) financial assistance from the VA, funds expended on claims development, and (3/87) information on statistics on the number and types of claims (not just ionizing radiation claims) filed at National and Regional Offices, number and qualifications of claims representatives, non-service representatives, and attorney service representatives, compensation for the above (including raises and bonuses), complaints received regarding VA/BVA/service organizations, "waiver briefs", budgets, documents describing recruitment and/or solicitation efforts by service representatives, and annual audits submitted to Congress.

I would also like to briefly note that stipulations have been agreed upon between NARS and the service organizations which somewhat narrow the scope of the information requested in the deposition notices served on the service organizations.

Statement of

The American Legion

1608 K STREET, N. W.
WASHINGTON, D. C. 20006

by

PAUL S. EGAN, DEPUTY DIRECTOR
NATIONAL LEGISLATIVE COMMISSION
THE AMERICAN LEGION

and

PHILIP R. WILKERSON, ASSISTANT DIRECTOR
FOR INFORMATION MANAGEMENT
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION

before the

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

on

TIMELINESS AND QUALITY OF PROCESSING CLAIMS FOR COMPENSATION
AND PENSION IN THE REGIONAL OFFICES OF
THE DEPARTMENT OF VETERANS BENEFITS

May 7, 1987

STATEMENT OF PHILIP R. WILKERSON, ASSISTANT DIRECTOR FOR INFORMATION MANAGEMENT
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
MAY 7, 1987

Mr. Chairman and Members of the Subcommittee:

The American Legion appreciates the opportunity to present its views on the operations of the Veterans Administration's Compensation and Pension Service particularly with respect to the quality and timeliness of its processing of benefit claims.

The quality of the work performed by personnel assigned to the rating boards, the adjudication and authorization divisions in the 59 regional offices located in the 50 United States, the Commonwealth of Puerto Rico, and the Philippines, directly determines whether beneficiaries, in fact, receive the benefits to which they are entitled by law.

The American Legion has expressed its concerns to the authorizing and appropriations Committees of Congress on numerous occasions regarding the impact that consistent and persistent reductions in personnel in the Department of Veterans benefits are having on quality and timeliness by those who must complete action on claims and disburse benefits to those who are eligible to receive them. Underlying this concern is the fact that VA beneficiaries are, in the main, either the service disabled, their survivors, or the aged and infirm seeking pensions. All of these beneficiaries are persons very much in need of the services and benefits they are seeking, many on an urgent basis, to help maintain themselves and their families. They are entitled to having their claims disposed of in an efficient and timely manner.

The ability of adjudication personnel in the regional offices to complete action on pending claims is contingent upon both human and mechanical factors. The present adjudication system is a combination of activities involving the personal review and consideration of various applications, evidence and historical files that culminates with the final input of instructions to the TARGET system, the generation of correspondence to the claimant and any necessary award action. TARGET is the computer system used by DVB for the adjudication of claims and other functions. When the TARGET system is down because of a malfunction or repairs, action cannot be completed on pending claims. Problems in either of these areas have a ripple effect upon the overall claims processing at a particular station and the management of the benefit delivery system.

The Department of Veterans Benefits, as a whole, has had employment reduced by well over 5,500 FTEE since FY 1979. Thus, the level of average employment of C&P field station personnel assigned to the rating boards, the adjudication and authorization divisions, has also undergone a steady decline over the past several years. In the period from March 1985 to March 1987, the FTEE has dropped by 8.2% from 3,835 to 3,547. Under the budget request for FY 1988, the level of FTEE is projected to be further reduced by approximately 3.5%.

These figures, however, do not reflect the full impact of the continuing loss of personnel upon the individual regional offices. Although there have been no formal reductions in force, attrition through transfers to other agencies, resignations, and retirements, without replacements has been the method by which mandated staffing levels have been met. This process does not, however, produce uniform results in each field station. The loss of key adjudicative, administrative, or support personnel directly effects the timeliness of claims processing. This happens because the workload is reallocated among the remaining personnel. Thus, you have fewer people trying to accomplish the same level of work. Regional office directors are hampered in their efforts to respond to such problems. One example of just how bad this situation can get was recently brought to our attention. We have been advised that in the Providence, RI regional office, Vocational Rehabilitation personnel were transferred to the Finance Division to keep it operating, and part-time high school students have been hired to accomplish other duties at the station.

We observe that in addition to the steady quantitative loss of personnel in the field stations, there has also been another intrinsic loss as well. In recent years, there have been large numbers of retirements among the cadre of the most experienced and senior adjudicators and rating board members. These individuals known in our business as the class of '46, joined the Veterans Administration in the period immediately following World War II and are now completing or have completed their government careers.

Although, in the main, those employees who are replacing them are dedicated and hard working individuals, their expertise and experience cannot be replaced or duplicated overnight.

Justification by the Office of Management and Budget for the continued reduced levels of staffing in the field stations has been, in part, based on statements that the number of claims for benefits has been steadily declining. The most often cited example of this trend is the current education program for Vietnam Era veterans, wherein the number of veterans who are eligible and enrolled in the program has sharply declined. In addition, the program will terminate on December 31, 1989. This set of circumstances should theoretically enable regional office directors to reassign adjudication and authorization staff within the station to other types of cases as this program phases out. This scenario, however, overlooks the fact that P.L. 98-525 has provided new educational benefits and the overall educational caseload has begun a phase of longterm growth.

In the statement of explanation accompanying the Administration's Budget Request for FY 1988, justification for reduced levels of staffing is listed as "anticipated caseload decreases, productivity improvements and greater efficiencies due to modernization." Honestly, we have not been able to find anyone who can explain how productivity increases through decreases in the numbers of employees.

Upon review of the summary report of the performance of field stations by the Compensation and Pension Service for the period March 1985 to March 1987, the data does confirm a downward trend in some, if not most, categories of claims processed by the regional offices.

However, Mr. Chairman, reliance upon such cumulative data can give a misleading picture of field station operations and mask the adverse effect that the continued staffing cuts have, in fact, had upon the timeliness and ultimately the quality of the processing of claims. In almost every category, the amount of time required to complete action has increased, meaning that fewer cases are being processed in comparison with performance levels in the recent past. In some instances, the average amount of time has increased only fractionally, but in others the increase has been more substantial. For example, in the period of March 1985 to March 1987, the percent of original compensation claims completed within 90 days dropped 3.5% to 32.8%. Those completed within 6 months declined 2.2% to 77.5%. The percentage of claims for service connection still in process after 6 months increased 2.2% to 22.5%. In the processing of disability pension claims, those completed within 90 days slipped by only one half of one percent to 54.3% and those completed within 6 months showed a slight improvement of two-tenths of one percent to 89.4%. The percentage of death pension claims processed within 90 days dropped sharply by 5% to 77.1% with the sharpest drop occurring in the period since September 1986. Likewise, the timeliness of processing of claims for DIC within 90 days declined by 4.6% to 61.4%. There was a 1.7% decline in claims processed within 180 days down to 90.1%.

Mr. Chairman, we wish to reemphasize the fact that during the time period cited, employment within the adjudication division fell by 288 FTEE.

These figures, in our opinion, highlight the disturbing fact that it is now taking substantially longer to complete the processing of an individual's benefit application and to pay any monetary benefits that may be due the veteran, dependent or survivor. The erosion of processing times has continued despite management and technical improvements within the Department of Veterans Benefits. These include such major initiatives as the Eligibility Verification Record program for those pension recipients and dependent parents, and the establishment of a direct data link with the National Personnel Records Center for processing requests for original service records, to mention just a couple. The anticipated benefit of improved timeliness in the processing of claims has not materialized from these efforts.

Mr. Chairman The American Legion is deeply concerned that the field operation of the Compensation and Pension Service, under current staffing levels, is not even able to hold its own in terms of processing the current workload in a reasonable, timely and efficient manner. Many types of claims, such as disability compensation, nonservice-connected pension, and service-connected death benefits, are increasingly complex and require more man-hours to develop and adjudicate.

An obvious conclusion can be drawn that the continued reductions in staffing levels in the field stations have had a direct and adverse impact on the Veterans Administration's ability to deliver services and benefits in an efficient and timely manner. There is no doubt that the planned introduction of new technology and the upgrading of the current TARGET system will enhance field station operations. However, the implementation of such improvements is still some years away.

The American Legion is convinced that the Department of Veterans Benefits and its Compensation and Pension Service cannot effectively operate at the current staffing level, much less at the reduced level of employment called for under the Administration's proposed Budget for FY 1988. We commend the Subcommittee for scheduling this hearing in order to examine the effects that the consistent and persistent personnel reductions are having on the ability of the Veterans Administration to carry out its responsibility of administering benefits to this nation's veterans in an accurate and timely manner.

STATEMENT OF

GORDON R. THORSON, SPECIAL ASSISTANT
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

WITH RESPECT TO

THE PERFORMANCE OF
VA REGIONAL OFFICE ADJUDICATION ACTIVITY

WASHINGTON, D. C. MAY 7, 1987

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

The Veterans of Foreign Wars is comprised of over 2.7 million members to include its Ladies Auxiliary. Many of our members and their families are directly impacted by the activities of the VA's Adjudication Division as they must rely on VA compensation and VA nonservice-connected pension benefits. We thank you for inviting us to testify before you, today, on this very crucial issue and we ask that our nation's veterans be given the best possible service available through the Veterans Administration.

Your Subcommittee has observed that there is an apparent deterioration in the ability of the VA regional offices to adjudicate claims in a timely manner. The Subcommittee also appears to be vitally concerned with alledged low levels of quality in the processing of claims, and there is further suggestion that veterans may have been denied due process by not following agency regulations and procedures during the adjudication of their claims. Your letter of invitation asked: "We want to hear from your witness what you and your people stationed in the regional offices think about the current performance of the adjudication activity, both favorable and unfavorable."

The Veterans of Foreign Wars, in an attempt to provide this Subcommittee with first-hand, timely and responsible testimony, circulated a questionnaire asking our VFW Service Officers to rate the performance of their local regional office's adjudication activity. The results of our recent survey indicate that the system works but there is a definite shortage of trained personnel. One favorable comment which can be made and this thought was voiced by many of the Service Officer participants: "The adjudication sections are doing the best job they can, considering the level of staffing and the workload." The survey questionnaire results reflected unfavorably on the Veterans Administration Regional Office (VARO) adjudication activity and clearly suggested that action must be taken immediately to reestablish timely response and a quality product at the VARO Adjudication Divisions.

Let's take a look at the VFW survey and the actual results. The questionnaire was made up of eight basic questions especially designed to address the questions posed by the Subcommittee in its letter of invitation to this hearing. Please note the questionnaire form identifies the name of the Service Officer, the state and the VA Regional Office served by the participating Service Officer. The questionnaire was distributed on April 28, 1987, and all responses were received by May 1, 1987, with the following summarized results:

- There were 46 questionnaires completed by VFW Service Officers.
- Responses came from 36 states, Puerto Rico and the District of Columbia.
- 39 regional offices were represented out of a possible 58 VAROs.

The following survey questions were offered, with summarized responses:

- **1. Have you noticed any deterioration in the ability of your Regional Office to adjudicate claims in a timely manner?** Sixty-five percent of those surveyed said that there has been a deterioration in the timely processing of claims. Reason most often given: reduction in qualified personnel appears to be the main complaint.

- 2. **With increasing budgetary restrictions, personnel reductions could occur resulting in less personnel in the Adjudication Divisions. How would reductions in the Adjudication staff impact on timeliness or quality of processing claims in your R. O.?** Ninety-three percent of our Service Officers object to any further personnel reductions in the Adjudication Divisions. Reason most often given: the Service Officers overwhelmingly agreed that further cut backs would completely devastate the adjudicative process, causing ever-increasing delays and loss of an accurate quality decision.

- 3. **Do you feel that the current Adjudication staffing level at your R. O. is adequate?** Seventy percent of those who should know felt that their VARO staffing level was inadequate. Explanation most often given: Again, the service officers stated that more qualified people are needed to handle the workload.

- 4. **Do you think that by maintaining the current Adjudication staff level an improvement in service will occur?** Eighty percent said "no." Reason most often given: The adjudication staffs are already working at their peak, morale is falling and in most cases there are not enough personnel.

- 5. **Do you believe that continued deterioration will result from maintaining the current level of Adjudication staff?** Sixty-seven percent are convinced that deterioration will continue unless something is done. Reason most often given: The VA cannot expect their adjudicators to continue to push out large quantities of decisions without affecting the quality of those same decisions.

- 6. **Do you think that Regional Offices are affecting the veteran's due process by not allowing adequate time for veteran response during the adjudication of claims?** Sixty-one percent of our Service Officers did not think that the VAROs were affecting the veteran's due process after considering this question. Reason most often given: many felt that the VAROs were very cooperative with their veteran clients. However, 33 percent did suggest that proper development of a claim oftentimes requires more time than normally allowed by the VAROs thus impacting on a veteran's due process.

- 7. **Do you feel changes should be made to improve timeliness and quality?** Eighty percent said "yes," changes must be made to improve both timeliness and the quality of final decisions. Change most often cited: increase staffing and give all personnel effective training to minimize errors, thus improving both timeliness and quality.

- 8. **What do you think about the timeliness and quality of the adjudication activity in your R. O.? Give both favorable and unfavorable responses if appropriate.** The response to this question varied greatly, however, one underlying thought continued to emerge: "I believe that the VARO personnel are doing the best job they can with the resources they have available."

The results appear abundantly clear: the Veterans Administration is not providing an adequate level of staffing to properly adjudicate claims; and, as a result, it is taking an increasingly long time to process claims. These long delays coupled with increasing workloads are causing fatique in the adjudication system and is suffering.

A summary of the information provided by our Service Officers suggests that there are three main reasons for VARO Adjudication Division deterioration: (1) the Veterans Administration is not providing sufficient staffing, (2) training provided by the VA is either insufficient or not properly targeted and (3) increasing workloads. The problem mix varies from station to station; some VAROs have adequate staffing, but because of the workload they are unable to spend the time to properly train the staff; some VAROs have a well-trained staff but not enough personnel to handle the workload. When you combine the above three ingredients in various proportions at the 58 VAROs, the final product could lack in timeliness and quality. Who is the ultimate victim? The veteran and/or their dependents--they are the victims. Veterans are not adequately served when they must wait months for a simple decision nor are veterans properly served if there is any question as to the quality of that decision.

Our VFW Service Officers overwhelmingly suggest that sufficient staffing and training be provided at every VARO to ensure that every adjudication activity is able to provide the veterans they serve with a timely response and a quality product.

STATEMENT
OF
BOB MORAN, ASSOCIATE LEGISLATIVE DIRECTOR
PARALYZED VETERANS OF AMERICA
BEFORE THE
SUBCOMMITTEE ON COMPENSATION, PENSION & INSURANCE
OF THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS
CONCERNING THE
ADJUDICATION OF COMPENSATION AND PENSION CLAIMS
MAY 7, 1987

Mr. Chairman and Members of the Subcommittee, on behalf of the members of Paralyzed Veterans of America (PVA), I want to thank you for the opportunity to appear here today, and to present our views and concerns on the operation of the compensation and pension services, focusing on the quality and timeliness of the adjudication of such claims. We commend you, Mr. Chairman and Members of the Subcommittee, for holding this oversight hearing on an issue of such critical importance to our nation's veterans and their families, and for always striving to improve the quality of services to those eligible for VA benefits and programs. For this PVA owes you our gratitude. I am Bob Moran, Associate Legislative Director with PVA.

Mr. Chairman, today I would like to depart from our normal procedure of simply presenting PVA's statement and letting our people, PVA's National Service Officers, those who have the personal knowledge of what is occurring throughout the nation, identify the problems at individual stations. I have included in my statement specific quotations of PVA personnel regarding Department of Veterans Benefits operations.

PVA as a congressionally chartered veterans service organization, has 55 service offices located in VA facilities throughout the United States. Our service officers are the individuals who are in daily contact with veterans and their dependents or survivors, assisting them in preparation and submission of their VA claims. Our service officers are also the individuals who receive personal visits and/or phone calls asking, "I filed my claim with you about four (4) months ago, how long does it take?"

These people, service officers, know of the problems, the delays in the VA's adjudication process, but, they are also the ones who know where to go within the VA's system to get help for the veteran or his family in times of emergency. Our statement today is not all critical, for within the VA's adjudication system there are good, quality, dedicated individuals. But, when faced with an ever increasing workload, a backlog of claims, a decreasing budget and reduced staff, the morale and quality of the work is going to suffer. The bottom line is that it is veterans applying for disability or widows making applications for pension, those who have already suffered, who must wait and suffer some more.

PVA polled each office to obtain the latest, up-to-date information on the adjudication process. The specific information we sought from each service officer was:

1) The processing time for compensation claims and pension claims. Give information on original and reopened claims;

2) Data on the backlog of cases;

3) An assessment on the quality of claims being processed;

4) List any perceived denial of due process by not following agency regulations and procedures; and

5) List any other comments, favorable or unfavorable, about the adjudication activity in your regional office.

The following is a table, based on our service offices' responses regarding processing time:

CLAIMS

	New Compensation	Reopened Compensation	New Pension	Reopened Pension
DAYS TO ADJUDICATE	142	92	117	89
HIGHEST	228	195	225	195
LOWEST	80	37	46	37

Additionally, our service officer's have reported an average staffing reduction in the adjudication departments of approximately thirty one (31) FTEEs from the previous year.

The following quotes are taken from various service officers letters received in PVA's national office regarding our inquiries.

Detroit, Michigan -

"Given the heavy caseload, budgetary constraints and loss of personnel, the VA has done an admirable job in terms of quality of work. Timeliness in adjudication is under control but definitely needs improvement, for we are not just speaking of statistics. Of concern are people's lives. For the severely disabled veteran with no income, four to seven months can seem like an eternity. No one, especially veterans, should have to face such a severe economic hardship."

St. Louis, Missouri -

"It is my personal feeling that morale in Adjudication is low. One reason is the work standards imposed on adjudicators. It is my opinion that any

reductions in force in the Adjudication Division would deteriorate the quantity and especially the quality of claims processing. It seems that virtually every C&P claim submitted will require some kind of additional development, some of which is necessary and some is redundant."

Denver, Colorado -

"Quality of claims processing - anyone that said, that the quality has not suffered here in Denver is not being realistic or honest. For example, of the twelve adjudicators here on staff four of them are trainees and one unit chief is a trainee. They have been helpful, open to suggestions and even come to us when the occasion presents - to ask us to assist in aiding our veterans."

Philadelphia, Pennsylvania -

"There is an evident deterioration of claims processing which will inevitably result in even further deterioration if additional personnel reductions take place. By reason of an overwhelming work load, the morale of adjudication personnel is extremely low."

Jackson, Mississippi -

"The Adjudication Department was fourteen weeks behind in processing claims. Mr. Robertson has had the entire department working extra hours through the week and at least three weekends per month into reducing the back log. This office must compliment Mr. Robertson and his assistant, Mr. Thompson for an outstanding job so far. In my opinion I feel that it would be disaster to reduce the staff at the Jackson VARO with the WWII veterans coming of age, the VARO work load is steadily increasing."

Louisville, Kentucky -

"Original compensation claims are being processed in approximately 149 days. Obviously, from my perspective, with less personnel than the VA Regional Office now has would certainly create a very severe situation in terms of timeliness of appeals, original claims, pension, education, etc."

Indianapolis, Indiana -

"Any further reductions of personnel in the Adjudication Division would result in longer processing times, more errors due to increased individual work loads, and overall poorer service to the veterans."

Albuquerque, New Mexico -

"The current level of employees has resulted in deterioration and it is doubtful there will be improvement. Morale is low and continues to get worse as workload is increased."

Cleveland, Ohio -

"It seems to me that should the adjudication division be forced to reduce the number of it's personnel the quality of work currently being done will definitely suffer. Any reduction in staff will result in an increased backlog, processing time and error ratio."

Sioux Falls, South Dakota -

"Original compensation average days to complete 120 - 130. We are of the opinion that should we lose any more VA personnel from our adjudication section our clients will suffer as the claims will not be processed in as timely a fashion, and we would fear that the quality of those claims processed would without question deteriorate."

New York, New York -

"Processing time for compensation approximately 7 months. Quality of claims processing has generally deteriorated. In essence, the reduction has caused across the board problems that can only be foreseen as getting worse if more reductions are made."

Newark, New Jersey -

"Processing time for compensation approximately 5 months. Quality of claims processing has generally deteriorated. Generally, the veterans in this jurisdictional area are experiencing additional hardship (financially), due to slower and/or improper processing of claims."

St. Petersburg, Florida -

"PVA enjoys a very good credibility and working relationship with the VA. We are aware of the massive workload the VA is faced with. We try to assist in developing information, obtaining treatment records, etc. But this will only be relieved by additional trained VA staff. Florida's C&P workload continues to increase, yet positions continue being taken away from this office."

Ft. Snelling, Minnesota -

"It would be quite apparent that with reducing personnel of the Adjudication Division at this regional office, the productivity as well as the quality of the end product would be hampered extensively."

Houston, Texas -

"When the administration began its reduction of FTEE and allowing many VA employees early retirement, we lost a tremendous amount of experience and knowledge in this regional office. In my opinion this has caused the backlog of claims and poor quality of claims processing and rating decisions in the Houston VARO."

Muskogee, Oklahoma -

"It is our opinion and observation that operating with less personnel in the Adjudication Division would without question cause definite deterioration within a short period of time. An example of this occurred eight months ago when the back-log on cases became so great that the Muskogee VARO was forced to call upon other VARO's for assistance in rating in excess of six hundred cases."

CONCLUSION

Mr. Chairman and Members of the Subcommittee, I hope the quotations from PVA's service officers from around the country have shed some personal insight into the situation that exists in the VA's regional offices concerning the adjudication of claims. Most all of the VA's regional offices are experiencing a backlog of cases and a heavy workload. And, when coupled with budgetary constraints and the loss of experienced personnel, the current situation of taking over four months to adjudicate an original compensation claim is increasing.

As the problems escalate, morale of VA personnel deteriorates along with the quantity and quality of claim processing, thereby requiring additional development of claims which increases the adjudication time even more. The one thing that all of PVA's service officers agreed upon, was that there would be without a doubt, an even greater deterioration of claims processing if further personnel reductions take place.

As PVA's national service officer from Detroit, Michigan, Mr. Michael D. Hogue, so eloquently stated:

> "Timeliness in adjudication is under control but definitely needs improvement, for we are not just speaking of statistics. Of concern are people's lives. For the severely disabled veteran with no income, four to seven months can seem like an eternity. No one, especially veterans, should have to face such a severe economic hardship."

Again, I want to thank you Mr. Chairman and each Member of the Subcommittee for looking into this most critical situation, that concludes my testimony.

TESTIMONY OF RONALD B. ABRAMS
LEGAL CONSULTANT, VETERANS ADMINISTRATION
BEFORE THE SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE OF THE HOUSE VETERANS' AFFAIRS COMMITTEE

May 7, 1987

Mr. Chairman, and members of the Subcommittee, thank you for the invitation to appear before you today. I have worked for the Veterans Administration for more than thirteen years. I have a strong commitment to the mission of the agency. Thus, I am gratified that this Subcommittee is taking this opportunity to examine what I and most employees of the Veterans Administration see as the principal question that the agency must confront -- whether it is being fair to the veteran we are here to serve.

I wish to point out to the Committee that I recently had the opportunity to share my views on this issue with the full Committee during its joint hearings with the Senate on March 17, 1987. Rather than simply repeating my comments, I have attached my prior testimony for inclusion in the record of this hearing.

I would now be happy to answer any questions that the Subcommittee might have.

PREPARED STATEMENT OF RONALD B. ABRAMS, LEGAL CONSULTANT, VETERANS ADMINISTRATION, BEFORE THE JOINT HOUSE AND SENATE COMMITTEES ON VETERANS' AFFAIRS -- MARCH 17, 1987

Mr. Chairman, and Members of the Committee, thank you for the invitation to appear before you today. I have worked for the Veterans Administration for more than thirteen years. I have a strong commitment to the mission of the agency. Thus, I am gratified that the Committees are jointly taking this opportunity to examine what I and most employees of the Veterans Administration see as the principal question that the agency must confront -- whether it is being fair to the veteran we are here to serve.

Although I have been invited to testify today not as a representative of the Veterans Administration, but as an individual, I want to make clear for the record that I am in fact an official of the Veterans Administration, and the views that I set forth today are based solely on my experience with the agency. That experience, I submit, has some relevance to the areas of the Committees' interests.

For the past 5 years, my work at the Veterans Administration has focused on studying the question of whether the procedures the Veteran Administration employs in handling claims for compensation and pension are in keeping with basic notions of fairness and due process.

As part of my work, I drafted an extensive report entitled

"Procedural Due Process -- Its Application to the Compensation and Pension Program" of the Veterans Administration. This report canvassed the agency's procedures for handling compensation and pension claims and assessed whether they passed muster under the law. In that report, I also made a number of suggestions as to how the agency could upgrade its procedures to ensure greater fairness. This report was approved by the Director of the Compensation and Pension Service, and distributed nationwide. I also prepared a second report, entitled "Compensation and Pension Regional Office Quality As Measured By Central Office Quality Review." This report analyzed over 1700 cases, found a number of deficiencies, and recommended that the agency take corrective action.

All of the work I performed for the past five years, review of case work done in our field offices for quality control purposes, revisions to the operating manual -- the bible that guides all agency employees, and site visits to various regional offices of the VA; were done principally to protect the rights of veterans by making sure that the agency extended to veterans all the procedural protections they are due.

In sum, my role within the agency has been to identify due process problems in handling compensation and pension claims and to offer solutions. For this work, I have regularly been commended by my supervisors at the Veterans Administration, at least up until the time the National Association of Radiation Survivors v. Turnage litigation reached the discovery phase.

It is no secret that I have voiced my concern over the agency's lack of resolve to strengthen its procedures to provide greater protections to the veteran. I did not seek to publicize my concerns, although I had regularly voiced them within the agency. Rather, my statements became a matter of public record because, in the National Association of Radiation Survivors v. Turnage litigation, I was required to give testimony and to turn over the records on due process I have prepared at the Veterans Administration to the attorneys for the plaintiffs. Now that these matters are open to the public, I would like to take this opportunity to share my concerns with the Committees over the inadequacies of the Veterans Administration's procedures.

In my view, there are systemic problems in the Veterans Administration, and they take two forms. First, the agency has not effectively enforced its own regulations relating to the procedures to be used in processing claims for compensation. To those of you who have any doubt that this is the case, I urge you to read the report entitled "Compensation and Pension Regional Office Quality As Measured By Central Office Quality Review." Although it is over a year old, in my view it accurately reflects the situation today.

Second, some of the agency's key directives and regulations need revision -- they need to be fortified to provide greater protections to the veteran, not only to meet minimal constitutional requirements, but to assure fairness. In this regard, I would like to state a personal view, which the Veterans Administration may not share. In my opinion, the agency has a higher duty than other agencies to be fair. Proceedings before the agency are ex parte in nature; the agency operates in what is intended to be a non-adversarial manner, indeed, we are obligated to assist the veteran in developing facts pertinent to his claim; and, as a result, there is no judicial review of agency decisions. Most importantly, we are here to serve heros. The Veterans Administration should not wait for the courts or Congress to force the agency to be fair to veterans. The heros that defended our freedom deserve better treatment.

The sine qua non of fairness is time. It takes time to be fair. It takes time to help the veteran document his claim. And it takes time to process often complex claims fairly. In my judgment, there is an inevitable conflict within the agency. On the one hand, there is a genuine pride and commitment to our mission, and dedication to serving the veteran. On the other hand, however, there is need to process claims in a timely and efficient fashion -- which often takes place at the expense of the due process rights of the veteran. In my judgment, the agency is now regularly sacrificing the procedural rights of veterans on the alter of managerial efficiency. We have, in my view, become singleminded in our pursuit of efficiency at the expense of the procedural rights of the veteran. I urge the Committees to take a careful look at the agency's practices to ensure that they measure up against well recognized constitutional standards.

There is one final point I would like to address. It is also no secret that I have raised concerns about the adequacy of the agency's compliance with discovery requests in the National Association of Radiation Survivors v. Turnage litigation. In my view, the agency's response -- which apparently was to hide documents suggesting due process problems within the agency -- reflects the agency's own doubts about the strength of its legal position. I deplore the agency's acknowledged failure to meet its clear-cut discovery obligations. However, I think that this issue is of secondary importance. The key question that needs to be answered, both here and in NARS, is whether the agency is treating veterans reasonably and fairly. I would hate to see that issue obscured.

I would now be happy to answer any questions the Committee might have.

STATEMENT OF

R. J. VOGEL

CHIEF BENEFITS DIRECTOR

VETERANS ADMINISTRATION

BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE

COMMITTEE ON VETERANS' AFFAIRS

HOUSE OF REPRESENTATIVES

MAY 7, 1987

Mr. Chairman and members of the Subcommittee:

I am pleased to be here this morning to discuss the timeliness and quality of processing of claims for compensation and pension in the regional offices of the Department of Veterans Benefits.

We use an automated system to measure the timeliness of claims processing. As action is completed on each claim, our computer system records the number of days which elapsed between the date the claim was received by the VA and the date of our decision. At the end of each month a report is prepared based on data accumulated for the month and over the prior 12-month period. The report will show, for example, the percentage of all original compensation claims completed in 30 days, 60 days, 90 days, 6 months, etc. A similar breakdown is provided for other types of claims (e.g., original live and death pension claims, reopened claims, etc.)

This monthly report is compared against a published benchmark to determine if claims are being processed within acceptable time frames. There are 28 standards in our timeliness measurement system. As of March 31, 1987, we were meeting an acceptable level of timeliness in 11 of those 28 categories.

One year ago we were meeting or exceeding the acceptable level in 18 categories. The slippage in timeliness is most apparent in the area of original claims. A year ago we were meeting our acceptable levels in 12 of 16 categories. Today we are meeting acceptable levels in only 7 of those areas.

We are in the process of reviewing DVB timeliness and quality benchmarks. This is the result of an ongoing management initiative to improve our field review process and assure accurate assessment of our benefits delivery system. We would expect this study to result in revision of some indicators and validation of the remainder.

Mr. Chairman, in your letter you expressed particular interest in the percentage of cases completed within 90 days and six months. I would like to submit for the record a chart which shows 90-day and six-month statistics in percentages of completed cases for the different categories of compensation and pension claims. This chart covers the period March 31, 1985 through March 31, 1987. The percentages reported are 12-month cumulative statistics ending with the date shown. The chart documents the fact that we have slowly been falling behind in the percentage of cases completed within the specified time frames, particularly in the 90-day category. The chart also reflects the decreasing number of employees within our Adjudication Divisions. On March 31, 1985, we had 3835 employees to handle compensation, pension and education claims. On March 31, 1987, we had 3547, a drop of 288 employees or 7.5 percent. In the last ten years our Adjudication Division staffing has decreased from 6355 to 3547 a loss of 2,808 positions or 44 percent. Even with the reduction in staffing, the Adjudication Division made approximately 5,150,000 decisions during FY 1986.

In reaction to staffing reductions, we have implemented a number of initiatives to increase or maintain our timeliness. For example, we have evened out the workload associated with the annual verification of pension eligibility by staggering the release of the questionnaires throughout the year rather than releasing them to all beneficiaries at the same time. We have also worked with the National Personnel Records Center in St. Louis and with the military service departments to ameliorate the longstanding problems we have experienced in obtaining service medical records. We are helping the national veterans service organizations train their service officers so that they will be better able to obtain all necessary information and evidence from their clients as they help prepare the claims for presentation to the VA.

We have additional initiatives underway in the timeliness area. We are in the process of automating the exchange of data between the regional offices and the medical centers so that less manpower is expended in this effort. We are also refining the computer programs that process computer data matches and legislative rate increases in order to reduce the number of cases that need to be processed manually. Finally, we have initiated a far-reaching program to modernize our ADP programs and equipment, and to automate all DVB processes that can be automated.

As you are well aware, there has been some widely publicized criticism of the Agency's quality control procedures in connection with a pending lawsuit. For example, it has been alleged that regional offices have denied due process to veterans by not following Agency regulations and procedures and that these problems have not been identified on Statistical Quality Control. This criticism is not justified. I state with absolute certainty that there is no pattern of systematic denial of due process. Over the years we have, through the Central Office SQC program, identified instances of local policies or practices that we felt were inappropriate. The responsible regional offices were notified of our findings and action taken to correct the situations.

Due process is an area which we have given a great deal of attention for the last few years. We will continue to provide this constitutional right to all of our claimants. We believe, however, that our claimants deserve more than this procedural safeguard. They are also entitled to compassionate consideration with reasonable doubt resolved in their favor.

In the quality area, I am happy to be able to report that, except in the sense that timeliness itself is a part of quality, there has not been a significant drop in the level of quality of claims processing. Two years ago our quality reviews for authorization activities showed an error rate of 1.8 percent for substantive errors. As of the end of March 1987 the figure was 1.7 percent. I have included with my testimony an exhibit for the record which displays error rates since February 1985.

As I have previously cited, the adjudication division made 5,150,000 decisions on claims in FY 1986. The Board of Veterans appeals reversed the regional offices in 5,361 cases. This represents 0.1% of total number of claims decided. We believe this is a very strong indication of the quality of our service to veterans.

At every level our personnel are held accountable for the quality of the work they perform or supervise. At the August

1985 adjudication officers' conference, the issue of quality was thoroughly discussed by a panel of adjudication officers. At the same conference and for subsequent directors' conferences, I have emphasized the importance of quality. It is my position and that of the department that quality is paramount. A lengthy explanation of our formal quality control procedures is included with the written testimony. I would like to briefly summarize these procedures.

SQC is a management system. When we assess quality with the SQC system, we look for more than erroneous adjudication of individual claims for two major reasons. First, SQC reviews serve as a program tool which help provide a statistically independent assessment of program performance. Program-wide shortfalls are identified so that revised procedures and/or modified workflow can be devised to improve performance and service. Second, SQC findings are a teaching tool identifying training needs not only at individual regional offices but also for the program as a whole. Regularly, Central Office staff members conduct training for field personnel from both the rating and authorization activities. The last cycle of training was conducted between January and March 1987.

The system of quality review for our decisions begins with a 100 percent review. The adjudicators prepare the awards and these awards are reviewed and either rejected or approved by an authorizer. A rating decision is a product of 3 individuals, one of whom is a physician. Any award or denial of benefits is concurred in by two or more individuals. In addition to these 100 percent reviews, a sample of each person's work is routinely reviewed by a first line supervisor as part of the performance appraisal process. Individual performance review is one of the basic management tools within our adjudication divisions.

To supplement these reviews, a statistical quality control (SQC) or review program also reports on the quality of claims processing. The SQC results are periodically validated by independent reviews performed by the Adjudication Officer and the Quality Review Committee, which is chaired by a regional office Assistant Director or other senior official. These reviews provide the program manager oversight capability from which additional training can be emphasized.

When quality levels do not meet acceptable levels or when the reports submitted by the first-line supervisor do not validate quality findings, special procedures go into effect. The

Quality Control Committee does a comprehensive quality review and analysis. The Adjudication Officer develops an improvement plan to remedy the quality deficiencies and provides a timetable for implementation of the proposed remedial actions.

A copy of this plan is submitted to Central Office. At the Central Office level an independent, semi-annual review of a random sampling of cases recently completed by each regional office is conducted. The statistical data obtained by Central Office are compared with the station's quality findings. Therefore, both Central Office and regional office management are aware not only of the nature of the errors discovered but also of the accuracy of the local quality review process in the regional office.

I believe that the statistical quality control program that we accomplish in Central Office accurately reports the level of quality in our claims processing. I further believe that both Central Office and regional office personnel conscientiously strive to resolve any weaknesses the SQC program identifies. Finally, I wish to emphasize the invaluable assistance we receive from the veterans service organizations in bringing selected cases or trends to our attention.

Mr. Chairman, I would be pleased to address any questions you or the other members of the Subcommittee may have.

I. OVERALL TIMELINESS PROCESSING OF ORIGINAL CLAIMS*

DATE	LIVE PENSION (END PRODUCT 180)		DEATH PENSION (END PRODUCT 190)		S/C COMP (END PRODUCT 110)		DIC (END PRODUCT 140)		BURIALS (END PRODUCT 160)	
	< 90 days	< 6 mo.	< 90 days	< 6 mo.	< 90 days	< 6 mo.	< 90 days	< 6 mo.	< 90 days	< 6 mo.
31-Mar-87	54.3	89.8	77.1	96.6	32.8	77.5	61.4	90.1	89.7	98.6
31-Dec-86	54.5	90.2	78.3	96.9	33.4	78.9	62.9	91.0	90.2	98.7
30-Sep-86	54.9	90.3	79.5	97.2	34.9	79.6	64.6	91.6	90.7	98.7
30-Jun-86	55.9	90.3	81.6	97.4	35.2	79.4	66.6	92.2	91.3	98.7
31-Mar-86	56.4	90.2	82.0	97.5	35.8	79.3	67.1	92.5	91.3	98.8
31-De -85	56.2	89.8	82.3	97.5	36.1	79.1	67.5	92.4	91.6	98.8
30-Sep-85	56.2	89.8	82.9	97.5	36.0	79.0	67.2	92.3	91.6	98.8
29-Jun-85	55.4	89.6	82.4	97.3	36.1	79.4	66.2	92.0	91.1	98.8
31-Mar-85	54.8	89.6	82.1	97.1	36.3	79.7	66.0	91.8	90.6	98.7

II. OVERALL TIMELINESS PROCESSING OF SUPPLEMENTAL CLAIMS*

DATE	NONORIGINAL CLAIMS (END PRODUCT 120)		NOTICES-DISAGREE (END PRODUCT 170)		INCOME ISSUES (END PRODUCT 150)		DEPENDENCY ISSUES (END PRODUCT 130)	
	< 90 days	< 6 mo.	< 90 days	< 6 mo.	< 90 days	< 6 mo.	< 90 days	< 6 mo.
31-Mar-87	60.1	89.8	83.1	96.6	90.4	98.6	91.9	98.5
31-Dec-86	60.9	90.3	85.0	96.9	91.0	98.7	91.9	98.5
30-Sep-86	61.8	90.7	86.2	97.2	91.2	98.6	92.3	98.6
30-Jun-86	62.6	90.7	88.1	97.5	90.5	98.5	93.3	98.8
31-Mar-86	63.0	90.6	89.3	97.7	89.2	98.8	91.9	98.6
31-Dec-85	62.9	90.4	88.7	97.6	94.1	99.4	92.6	98.9
30-Sep-85	62.6	90.3	87.8	97.4	94.9	99.5	92.5	98.9
29-Jun-85	62.4	90.3	87.4	97.2	94.9	99.5	92.1	98.9
31-Mar-85	62.4	90.4	86.7	97.0	95.09.4	99.4	92.3	98.9

*Shown in percentages of claims completed over prior 12-month period.

III. EMPLOYMENT WITHIN ADJUDICATION

31-Mar-87	3547
31-Dec-86	3569
30-Sep-86	3583
30-Jun-86	3481
31-Mar-86	3629
31-Dec-85	3789
30-Sep-85	3764
29-Jun-85	3832
31-Mar-85	3835

Appendix A

Quality Statistics

The following is a breakdown of the national quality levels (i.e., error rates) 1) as reported by the regional offices and 2) as found on Central Office reviews. The error categories are classified as substantive and judgment. A substantive error is an action taken to grant or deny a benefit when correct action would have had an opposite result. A substantive error is generally the overpayment or underpayment of benefits. However, it is not restricted to monetary considerations but also includes any other benefit entitlement subject to adjudicative disposition. A judgment error is a material deficiency of greater significance than procedural or mechanical discrepancies, but of less import than a substantive error.

The following summarizes regional office and CO SQC findings for rating and authorization actions.

Period	Rating Actions		Authorization Actions	
	Subs.	Judg.	Subs.	Judg.
Aug '86 - Jan '87				
Reported RO Error Rate:	1.6%	1.7%	1.7%	3.0%
CO Error Rate:	1.6%	3.7%	2.0%	8.2%
Feb '86 - Jul '86				
Reported RO Error Rate:	1.6%	1.9%	1.8%	4.7%
CO Error Rate:	3.6%	4.0%	1.9%	7.2%
Aug '85 - Jan '86				
Reported RO Error Rate:	1.2%	1.8%	1.6%	4.2%
CO Error Rate:	2.8%	4.5%	1.9%	8.4%
Feb '85 - Jul '85				
Reported RO Error Rate:	1.0%	1.8%	2.0%	2.9%
CO Error Rate*:	3.0%	4.3%	4.0%	8.2%

(* Results of SQC for seven stations are not available)

Exhibit B

Department of Veterans Benefits
Quality Review Program

Each first-line supervisor in the Adjudication Division is responsible for the initial formal SQC (statistical quality control) review in the area for which he or she is responsible. A random automated selection of pending issues identifies the cases to be reviewed. The initial review findings are recorded on an SQC listing which shows the cases reviewed and exception codes assigned for any noted deficiencies. On those issues for which an exception is taken, a Quality Review Exception Sheet is prepared summarizing the nature of the deficiency. A copy of the exception sheet is attached to the SQC listing. At the end of the quality review month, a Statistical Quality Control Worksheet is prepared showing the file numbers of all cases reviewed and the exceptions, if any, on each case. The above material is retained by the Adjudication Division for systematic analysis and audit purposes.

A statistical quality control chart is maintained at each regional office which reflects the error rates found on the SQC review and indicates quality level, changes in quality level and whether quality levels are within acceptable limits. If unacceptable quality is indicated, corrective action is necessary. Based upon the nature of the unacceptable quality level, determined by analysis of the specific errors identified, corrective action may consist of special training, procedural changes, or other action to eliminate the cause.

The SQC findings of first-line supervisors are validated on a periodic basis to ensure that reported quality is correct. The validation is part of the regional office's systematic analysis review program. The validation generally is conducted twice yearly or more frequently when it is determined or suspected that the quality of initial review needs improvement. Issues are selected from the SQC listing sheets. The validation is accomplished under the direction of the Adjudication Officer utilizing the members of the station's Quality Control Committee. The Adjudication Officer is responsible for the quality of all work performed within the division and must be satisfied as to the validity of the quality reported by the first-line supervisor.

The above mentioned Quality Review Committee is chaired by the regional office Assistant Director with the remaining members designated from the Adjudication Division staff. The Committee performs a validation audit of quality review reports as part of regular systematic analysis of operations. It also serves as an advisory committee on interpretation of instructions, definition of errors and quality review findings in disputed

Exhibit C

errors, analyses monthly quality review worksheets and control charts to determine the need for corrective action to reduce error rates, and indicates appropriate action to improve quality when such action is indicated.

When the error rate established on quality review for three consecutive months exceeds the minimal acceptable level, or the reported error rate fails to be validated, either on local or Central Office validation review, an unacceptable quality situation exists. Failure to validate on review is considered an unacceptable quality situation regardless of the reported quality levels involved, since the competency of the review is at issue. In such a situation, the Quality Review Committee assumes full responsibility for local validation on a monthly basis. The Committee prepares a comprehensive review and analysis of all errors found on review. The report of this review is referred to the Adjudication Officer for development of a positive plan for improvement. The improvement plan is submitted to Central Office and includes an assessment of what is felt to be necessary to remedy the quality deficiencies, plus a timetable for implementation of the remedial plan.

Central Office SQC is a process designed to provide an independent statistical measure of quality in the regional offices' processing of compensation and pension claims. The statistical data obtained by Central Office through its semi-annual review of a sampling of recently completed cases is compared with the regional office's report of quality levels so that both CO and regional office management are aware not only of the nature of any errors found but also the effectiveness of the office's own quality review program. After each CO SQC review, the regional office is sent a written report which itemizes the specific errors found and in so doing identifies areas for refresher training or closer control by local management.

Approximately every three months, the regional offices are advised by means of a CO training letter of any general deficiencies noted nationwide during the course of the Central Office SQC reviews and quality improvement opportunities. The letter points out areas where training should be concentrated to improve the overall quality of adjudication activities.

Quality Statistics

The following provides a supplemental summary of available Central Office SQC findings for rating and authorization actions. Data covering comparable reported Regional Office error rates are not available except for the period August 1984 to January 1985. Results of Central Office SQC similarly are not available for a number of stations. The number of stations for which data are available is shown in parentheses for each period provided:

Period	Rating Actions		Authorization Actions	
	Subs.	Judg.	Subs.	Judg.
Aug '84 - Jan '85				
Reported RO Error Rate:	1.2%	1.3%	1.6%	4.2%
CO Error Rate (46):	2.8%	2.8%	2.4%	7.7%
Feb '84 - Jul '84				
CO Error Rate (25):	2.2%	2.5%	3.3%	5.7%
Aug '83 - Jan '84				
CO Error Rate (49):	1.2%	3.7%	2.6%	6.5%
Feb '83 - Jul '83				
CO Error Rate (41):	2.9%	2.7%	1.5%	6.8%
Aug '82 - Jan '83				
CO Error Rate (42):	1.7%	2.3%	1.6%	5.5%
Feb '82 - Jul '82				
CO Error Rate (43):	1.8%	1.4%	2.1%	5.7%
Aug '81 - Jan '82				
CO Error Rate (50):	1.6%	1.9%	1.5%	4.7%
Feb '81 - Jul '81				
CO Error Rate (55):	1.2%	1.9%	2.5%	3.4%
Aug '80 - Jan '81				
CO Error Rate (54):	0.9%	2.4%	2.4%	3.8%
Feb '80 - Jul '80				
CO Error Rate (56):	0.9%	2.5%	2.7%	3.0%

STATEMENT OF
MICHAEL A. O'MALLEY
DEPUTY NATIONAL SERVICE DIRECTOR
AMVETS

BEFORE THE
COMMITTEE ON VETERANS AFFAIRS
SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
U. S. HOUSE OF REPRESENTATIVES

ON
COMPENSATION AND PENSION CLAIMS

MAY 7, 1987

Mr. Chairman, members of the Subcommittee: The American Veterans of World War II, Korea and Vietnam (AMVETS) appreciates this opportunity to present testimony relative to the timeliness and quality of processing claims for compensation and pension in the Regional Offices of the Department of Veterans Benefits.

In comparing pertinent data for time periods March, 1985 through March 1987, one notices a decrease in the timeliness of compensation/pension claims processing. Specifically, overall productivity dropped approximately seven points. It should be noted the Adjudication Division employed 3,835 in March of 1985 as opposed to 3,547 during March 1987 - a 288 employee reduction. AMVETS views this reduction as the single most precipitating factor in Adjudications reduced productivity. We commend those VA employees charged with overwhelming caseloads for their continuing dedication.

Regarding timeliness and quality of claims processing, we offer for your consideration the following: The relative base weight standards under which the Adjudication Divisions operate, and which we believe to be the primary basis for determining the number of employees to be allocated to the various Adjudication Divisions, were promulgated many years ago, with a very slight modification in 1981.

When the original work rate standards (the forerunner of the current base weight standards) were established there was one basic pension program with all of two basic rates payable and a very simple method of calculating income. The effective dates of entitlement, reduction and discontinuance were also very simple. Entitlement to service-connected compensation was for the most part based on a clear and identifiable incident in service and its relationship to a current diagnosis. With regard to the issue of due process, this Constitutional right was regrettably limited in its application. In recent years claims have been filed for disease entities unheard of years ago. Post Traumatic Stress Disorder, AIDS, Agent Orange related diseases and disabilities related to radiation exposure all require extensive development and the exercise of very careful and skillful judgment. The above diseases constitute a substantial percentage of todays claims processing activity. Because of the extensive development as required by VA directives and the need for excellent VA examination reports, we note that it takes much longer to process these claims than, for example, an orthopedic disability which had its onset in service and for which there is a clear and identifiable entry in the service medical records showing an orthopedic inquiry.

AMVETS realizing the difficulty that the VA is experiencing by shortage of trained personnel,especially in the area of Post Traumatic Stress Disorder, has embarked upon an extensive training program for all AMVETS National Service Officers. Our organization has expended considerable time, effort and money in this regard.

Through the cooperative participation of the Veterans Administration, we have identified two additional areas of concern in the timeliness and quality of claims processing:

1) Medical Administration Service time delays in accomplishing rating examinations.
2) Lack of coordination between Department of Veterans Benefits and Department of Medical and Surgery, resulting in lack of use of Readjustment Counseling Service Instructors for VA Adjudication staff.

We feel that such expenditure is worthwhile. In addition to having well trained National Service Officers we are in a better position to assist the regional office employees in developing and processing a claim and assuring the correctness of the final product.

Mr. Chairman, our point is that the claims being handled today are more complex, require extensive development, take more time to analyze and overall are more difficult and time consuming than those claims processed years ago. Yet far less employees are assigned to this difficult task than were assigned to a lesser task years back. It is unfair to our veterans and to the many fine VA employees to continue with present productivity standards.

In addressing preservation of due process to veterans by Regional Offices in adjudication of claims, AMVETS is perplexed by continued application of the production point system, given current reductions within the Adjudicatory ranks. To achieve production standards, a total of 39 points daily must be allocated. A decision is given two points. A case requiring further development is given one point. Example: 13 completed cases = 26 points, to achieve daily productivity requirement 13 cases could be referred for further development (13 points). Clearly such a system lends itself to unnecessary development, as little adjudication time is required by the referral on the initial review, but considerable time will be needed when the referral is reassigned upon completion of newly developed information.

We note serious problems exist in the timeliness of service medical record transmittals. The Military Records Processing Center does not respond to a VA Adjudication request within 60 days, sometimes simply because wrong forms were submitted. In actuality response time often exceeds 180 days. In many cases the military fails to respond to the VA's written request for service medical records. In some instances regional offices have been directed to military telephone recordings. In other instances where records do not exist, the military fails to respond.

AMVETS respectfully suggests implementation of one universal form recognized by both military and VA as an expeditious information response request and one special VA/military telephone communications line.

WRITTEN COMMITTEE QUESTIONS AND THEIR RESPONSE

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

JUN [illegible] 1987

JUN 24 1987

Honorable G. V. (Sonny) Montgomery
Chairman, Committee on Veterans'
Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed please find the Agency's responses to the questions which were submitted following the May 7, 1987, hearing by the Subcommittee on Compensation, Pension and Insurance by Mr. Douglas Applegate, Chairman of the Subcommittee and Mr. Bob McEwen. Thank you for the opportunity to provide this additional information for the record.

Sincerely,

THOMAS K. TURNAGE
Administrator

Enclosure

Question 1: Mr. Abrams testified in effect that the St. Paul Regional Office and Insurance Center was not a good office and that it had poor quality in the Adjudication Division. What are your comments about his testimony in this regard?

Answer: A review of the latest available information concerning the St. Paul Regional Office does not tend to bear out Mr. Abram's testimony. A review of the station's statistical quality control (SQC) review results since 1979 showed only four times have they failed to reach an acceptable level in reported quality levels. All four times it was in the area of authorization procedural discrepancies. All four of these reported error rates were subsequently validated on a VA Central Office (VACO) independent audit. Conversely, there were six instances noted since 1979 where the station's reported error rate was not validated on an independent VACO review. During the period in review there were 78 categories of reported exceptions reviewed. Therefore, only 5.1% of the reported quality levels were considered unacceptable, and only 7.7% of the reported exception rates failed to validate. This would tend to indicate that St. Paul has very few, if any, real problems in the area of quality.

In the area of timeliness of claims processing, as of 4/30/87 the station's timeliness was equal to or better than the national averages in 22 of the 28 measured areas of compensation and pension (C&P) end products. This is considered good.

A recent site visit to the St. Paul office noted no great problems in the Adjudication operation. There were several recommendations made, but this is the case in all site surveys. A special on-site review of the rating activity is being considered at this time. In general, it is not felt that the station is in the sad state attributed to it by Mr. Abrams.

Question 2: The Vietnam Veterans of America testified that a serious Power of Attorney problem exists in the Veterans Administration. What is this problem exactly, how extensive is it, and what is being done about it. In your answer, please estimate the number of cases in which the Vietnam Veterans of America hold Power of Attorney.

Answer: We recognize a problem exists in the timely entry of Power of Attorney (POA) codes into our computerized records system. The lack of attention to the entry of a POA code, or the inaccuracy of the POA code during claims processing, results in a Service Officer not being able to access computer claims development screens on our video display terminals and fails to provide the Service Organization with copies of computer-generated correspondence.

To remedy this problem, several solutions are being developed. The first solution is the development of a claims processing system which will make the POA Code a mandatory item. Currently, the POA code in the claims establishment process is an optional item and this results in the omission of the POA Code due to forgetfulness or error. The establishment of a mandatory entry of a POA Code will serve as a reminder to our data entry people to check whether a claimant has appointed a representative. If there is one, the representative's computer code must be entered into the system.

In addition, we are in the process of establishing a centralized contact point in each field office which will allow a Service Officer direct contact with personnel who will enter POA Codes in active payment records. Usually POA appointment forms are handled through the mail, are intermingled with various other correspondence and, oftentimes, are not sorted for expeditious processing. With the proposed contact procedure, a Service Officer will be able to go directly to the contact point and request entry of the POA Code into the computer. The personnel manning the contact point will be instructed to enter the correct POA Code without delay. This "same day" service will enable field personnel to immediately update a claimant's records and eliminate many problems experienced by Service Officers.

Our records show the VVA holds power of attorney for 348 claimants.

Question 3: The Vietnam Veterans of America have asked you to set up a special system for that organization. This refers to an alleged address problem and a request for copies of much of the material in claims files. Do you plan to agree to this request and, if not, why not?

Answer: The VA does plan to substantially comply with VVA's request. Attached is a copy of the CBD's letter of May 5, 1987, to VVA's Director of Legal Services, David F. Addlestone. The letter states that we will remedy their concerns about failure to receive copies of file information (4th paragraph) and failure to receive copies of claims file material upon request (penultimate paragraph).

Question 4: With the exception of timeliness problems, what specific kind of quality deficiencies are you finding in your review of Regional Office adjudication decisions?

Answer: It is important to keep in mind that in the course of our review deficiencies are often noted in actions not subject to review for statistical quality review purposes. These deficiencies are not included when computing quality levels but are pointed out to the regional office for any corrective action and for training purposes. Also, several deficiencies may be noted in a particular claims folder, some, all or none of which may be included when computing quality levels, depending upon whether they are a part of the reviewable action.

Substantive rating deficiencies consist of the clearly erroneous grant or denial of a claim, over or underevaluation of disability, erroneous effective dates, failure to take action on a substantive issue or due process deficiencies for which the rating board is responsible. Judgment or material deficiencies involve a questionable grant or denial or over or underevaluation. Also included in judgment or material deficiencies are ratings based on what is held to be incomplete or inadequate medical evidence, or, inadequate or unnecessary development by the rating board. Procedural exceptions involve minor deficiencies which have no actual or potential effect on entitlement rights.

Substantive authorization deficiencies consist of over or underpayment of monetary benefits due to errors in the basic entitlement determinations, dependency determinations, income computations and dates or rates of payment. Failure to act on or control a claim and due process deficiencies are also considered substantive errors. Judgment or material deficiencies are considered to be less serious than substantive errors but more serious than procedural errors. They include questionable judgment in the basis used to grant or deny benefits or in determining the rate payable. End product control deficiencies, an internal control system which has no effect on the claimants' rights or the benefits payable, and claims development deficiencies are also generally considered judgment errors. As with rating issues, authorization procedural exceptions involve deficiencies which have no actual or potential effect on entitlement rights.

Question 5: When and if your offices make an "administrative disallowance" on a claim, what avenues are then open to the veteran claimant to reopen his claim?

Answer: The term "administrative disallowance" refers to the denial of a claim for failure to furnish requested evidence. The claimant is told that his/her claim is denied because the VA did not receive the requested evidence. The claimant is also informed that he/she can appeal the VA's denial to the Board of Veterans Appeals.

In addition, the claimant is told of his/her rights to reopen the claim by submitting the requested evidence. Specifically, the VA tells the claimant that if the evidence is received within 1 year of the VA's request, benefits can be paid retroactive to the original date of claim 38 U.S.C. 3003; 38 C.F.R. 3.158; Adjudication Procedure Manual M21-1, par 16.03. The claimant can reopen the claim by submitting the requested evidence after 1 year from the date of request. In this case, benefits would be payable only from the date of receipt of the reopened claim.

Question 6: Do you see anything wrong in taking several end products on the same case as various kinds of work are completed?

Answer: End products (EP's) are a work measurement device which gives VA managers a handle on pending and completed claims. End products do not affect the grant or denial of benefits, the amount of benefits paid, the type of notification furnished or any other factor of importance to the claimant. In general, the established procedure is that one EP will be taken for each claim. However, there are a number of exceptions which are allowed.

For instance, when a burial claim is submitted concurrently with a headstone/marker claim, separate EP's 160 are allowed, using the reasoning that separate and distinct benefit issues are involved. Other examples include development of separate issues such as special monthly pension or dependency when processing eligibility verification reports (EVR); development from Service Departments on certain retired pay cases and dependency and indemnity compensation (DIC) claims after an award has been processed; requests for personal hearings and replies to special controlled correspondence, without regard to any other EP which may be pending.

These are a few of the examples where more than one EP might be allowed on the same case. Obviously, there are other instances when the taking of more than one EP would be erroneous. In VACO's review of quality of rating and authorization actions, a good deal of effort is taken to determine if stations are taking more EP's than those to which they are entitled.

Question 7. When Central Office statistical quality control results are different from those of the Regional Offices, what action do you take?

Answer: Each regional office has a standing Quality Review Committee, chaired by the Assistant Director or the senior member of the Director's immediate staff in those stations where an Assistant Director is not authorized. The remaining membership is made up of designated members of the Adjudication Division staff including the Adjudication Officer. Under normal circumstances when the determined error rates do not exceed acceptable levels and are validated on subsequent local and VACO reviews, the committee has certain validation and analysis responsibilities.

When the error rate established on quality review for three consecutive months or the 12-month cumulative period exceeds the minimum acceptable level or the reported error rate fails to be validated, either on local or VACO validation review, an unacceptable quality situation exists. Additional responsibility and authority commensurate with the situation are vested in the Quality Review Committee at this time. These additional responsibilities include holding formal monthly meetings, with the minutes being recorded, and assuming full responsibility for local validation on a monthly basis. The validation review is accomplished by committee members or such other regional office members as are designated by the committee. The committee prepares a comprehensive review and analysis of all errors found. The report of this review is referred to the Adjudication Officer for development of a positive plan for improvement. After development of the improvement plan, the original report and a copy of the improvement plan are forwarded to VACO. The submission to VACO includes a formal written response, over the Director's signature, addressing the deficiencies noted by the committee, delineating the course of action proposed to remedy the deficiencies and establishing a timetable for implementation of the remedial plan.

MAY 0 5 1987

David F. Addlestone
Director
Vietnam Veterans of America Legal Services
2001 S Street, N.W.
Suite 710
Washington, D.C. 20009-1125

Dear Mr. Addlestone:

We have reviewed your letter of February 18th and believe we can remedy all the matters about which you have expressed concern.

I will be pleased to disseminate a description of VVA's program to the regional offices, if you will furnish it. I think it would be quite beneficial in familiarizing DVB personnel with how VVA functions.

We do not see that a change to chapter 5, M21-1 is needed. If I understand your concerns correctly, paragraph 5.07g should be sufficient to enable regional offices to respond to situations like yours. Should the system fail, we should be informed so we can review the particular situation.

The New York and Buffalo offices will be informed of the agreement to furnish copies of file information to your representatives on an individual basis. As soon as we receive the addresses for those VVA representatives, we will initiate this measure. Likewise, when you furnish the list of key VVA contacts, we will inform the regional offices.

As was discussed, the only way we can see getting copies to the individual VVA representatives is to have them designated as individual agents. Therefore, under existing procedures regional offices would have to send copies directly to the individual holding power of attorney. There should be no delay other than the time it routinely takes to pull the claims file to obtain the address to which the copies should be sent. Being designated as an individual agent will preclude access to a claimant's computer records through the Target system inquiry functions. This should not be significant since your representatives are not situated at regional offices.

213B

We will reaffirm to the regional offices their responsibility to provide copies of claims file material when requested by an organization or individual holding a power of attorney. However, as was stressed in your meeting with Mr. Moore, requests should be limited to specific documentation necessary for you to adequately represent the claimant.

Admittedly, the problem with lack of timely entry of power of attorney codes into the computer system continues. Be assured that we share your concern and are taking action. The power of attorney code should be entered during establishment of a pending issue file if the VA Form 23-22 is of record. To better ensure entry of the code, we are modifying the Target system to make this a mandatory entry at claim establishment of original and supplemental issues. Once an issue is established, any subsequent assignment of a power of attorney should be timely processed. This fact will be emphasized to our field personnel with follow-up review to ensure compliance.

Sincerely yours,

R. J. VOGEL
Chief Benefits Director

Mr. Douglas Applegate
Chairman - Subcommittee on
Compensation, Pension and Insurance
U. S. House of Represenatives
Committee on Veterans' Affairs
335 Cannon House Office Building
Washington, D.C. 20515

317/21

Dear Mr. Applegate:

I have reviewed the questions Congressman Evans sent as a part of the testimony I gave before the House of Veterans Affairs Committee on May 7, 1987. My response to the questions is attached.

I hope these answers are responsive to the intent of the questions and they assist you in making the very difficult decisions before you. The people who work here and who have a direct effect on the quality of life of Florida's veterans appreciate your concern on their behalf.

T. IVERS
Adjudication Officer

Attachment (1)

QUESTION NUMBER ONE: The error rate statistics attached to Mr. Vogel's testimony show that, generally, higher error rates are found during Central Office Reviews than are reported by Regional Offices. Why do you think this is the case? Does your office generally report error rates higher or lower than those found by Central Office review of your office? What error rates have been found for your office over the last 5 years by your internal reviews and by Central Office reviews?

ANSWER - QUESTION NUMBER ONE: (a) VACO staff are likely to find more errors because quality review of files is their main function. Reviewers in the field review files on an ad-hoc basis, reviewing about 20 files each month. VACO staff review a minimum of 14 files each day, have greater experience at it and can focus their attention to the review more closely. (b) Generally, our error rate in the substantive area is close to findings on VACO review. Until last year, VACO review found more errors than we in judgement areas of authorization and procedural areas of rating and authorization. Lately, we are finding more errors in procedural areas than VACO review. (c) For comparison of error rates, please refer to the attached chart.

QUESTION NUMBER TWO: Does your Regional Office Director consider as part of your job evaluation whether the Statistical Quality Control (SQC) reviews conducted by your division are validated by Central Office? If so, for how long has this been the situation and how does a failure to validate affect your evaluation?

ANSWER - QUESTION NUMBER TWO: Not only does my performance standard contain as a part of the first critical element a requirement to validate quality findings, but the Director's performance standard also contains a similiar requirement in the critical element of all Adjudication supervisors Performance standards. We must validate based on VACO findings in 75% of areas reviewed, or we will all fail to meet our critical element and would be rated as unsatisfactory. Such a rating would result in removal from the current position. This requirement has been in our performance standards for two years now.

QUESTION NUMBER THREE: Do you routinely share copies of your Staff Analysis of Operations reports, Board of Veterans Appeals Study Reports, and quality control reports with service organization representatives?

ANSWER - QUESTION NUMBER THREE: I do not furnish copies of the cited reports to service organizations. However, I do communicate with the leaders of the service organizations regularly and advise them verbally of the positive and negative findings. Also, we hold training often in response to guidance furnished from VACO and the service officers are invited to all of our in-house formal training.

QUESTION NUMBER FOUR: Do you file copies of SQC reports in individual cases with the affected individual's claims file for use by the claimant's representative? If not, why?

ANSWER - QUESTION NUMBER FOUR: Exception sheets are not retained in folders (Reference M21-4, Appendix E, Section II(d)). In accordance with current instructions, the file documents make reference to the facts involved in the exception sheet.

QUESTION NUMBER FIVE: Without identifying individuals, please describe the educational degrees attained by your rating board members?

ANSWER - QUESTION NUMBER FIVE: This office has 32 rating board members. Four of them are medical doctors. Of the remaining lay members, educational background is as follows:

GRADUATE DEGREES - 3
GRADUATE CREDITS - 3
UNDERGRADUATE DEGREES - 16
UNDERGRADUATE CREDITS - 4
HIGH SCHOOL ONLY - 2

QUESTION NUMBER SIX: If you polled all the adjudication division employees and asked them whether they felt they operated under stress due to timeliness requirements, what do you think their responses would indicate? If you think time pressures are greater than are desirable, what suggestions do you have for lessening those pressures?

ANSWER - QUESTION NUMBER SIX: Every week a goal of timeliness in terms of the oldest case to work is set for adjudicators and rating board. The employees work to reach that goal and supervisors move cases to insure that the goal is reached. Adjudicators and rating specialist also have a timeliness standard expressed in terms of average days to completion as shown on the Target WIPP screens. It is a portion of a critical element. Timeliness has been explained to all employees and I believe they all have an understanding of the concept. These factors combine to create a certain amount of stress and frustration. I believe that most employees would tell you they feel greater stress from the constant pressure to avoid errors. We constantly remind employees that their decisions have a major effect on people's lives and no mistake is insignificant. These combined pressures can create an atmosphere of real stress for employees. They would welcome any opportunity to have some of their timeliness pressures removed so that they can concentrate on giving more attention to quality.

Veterans Administration

	RATING				AUTHORIZATION		
	SUB-STANTIVE	JUDGE-MENT	PROCED-URAL		SUB-STANTIVE	JUDGE-MENT	PROCED-URAL
8/31/83 RO FINDING	1.0	0.6	2.1		1.7	2.8	4.0
8/31/83 VACO FINDING	0.0	3.7	1.0		1.5	3.1	7.7
8/31/85 RO FINDING	1.5	1.5	2.0		2.4	2.8	4.4
8/31/85 VACO FINDING	0.0	3.0	6.1		1.5	10.4	17.9
11/30/86 RO FINDING	1.1	1.2	5.5		2.3	5.8	8.9
11/30/86 VACO FINDING	15.6	0.0	3.1		3.0	9.1	0.0

VA FORM 7051 DATA SHEET

Regional Office

730 Peachtree St. NE.
Atlanta, GA 30365

Veterans
Administration

In Reply Refer To

316/21

Honorable Douglas Applegate
Chairman, Subcommittee on Compensation,
Pension and Insurance
House Veterans' Affairs Committee
House of Representatives
Washington, DC 20515

Dear Mr. Applegate:

Enclosed are my answers to the questions presented by the Honorable Lane Evans.

Once again, I would like to thank you for the opportunity to participate in these subcommittee hearings.

J. DOROLEK
Adjudication Officer

Enclosure

21/160

Question 1:

The error rate statistics attached to Mr. Vogel's testimony show that, generally, higher error rates are found during Central Office Reviews than are reported by Regional Offices. Why do you think this is the case? Does your office generally report error rates higher or lower than those found by Central Office review of your office? What error rates have been found for your office over the last 5 years by your internal reviews and by Central Office Reviews?

Response:

There are a number of factors which may account for the distribution of the quality findings that accompanied Mr. Vogel's testimony. The primary factor is that quality is a rather elusive feature to measure. Unlike timeliness or productivity, quality does not readily lend itself to precise quantification or categorization.

The Veterans Administration has three error categories which, in order of gravity, are: substantive, judgement and procedural. Many of the errors identified on review lend themselves to classification in more than one category. For example, an error in income computation is a substantive error. However, an error in income computation which involved questionable judgement is a judgement error. Similarly, materially incomplete information furnished the claimant is a judgement error. However, an explanation of an adjudicative action which is vague or incomplete is a procedural error. To some extent, error categorization is a coefficient of the reviewer's perspective. The judgement error category would be the classification most affected by reviewer subjectivity since judgement errors may be alternatively classified in either the substantive or procedural categories.

Another factor which impacts the quality findings is the difference in the employees conducting the review. The primary duty of the Central Office quality review staff is to analyze cases. Staff members are usually assigned to the same office and are in a position to discuss findings, "compare notes" and otherwise develop expertise in this area. Contrast this to the Regional Office environment where quality review responsibility is an additional duty assigned to a supervisor or technician. Although Regional Office employees conscientiously review cases, they are not in a position to develop the expertise of the Central Office staff.

In assessing the statistical data that accompanied Mr. Vogel's report, a portion of the variation is attributable to the elusiveness of quality measurement. Nonetheless, Central Office error rates are consistently higher than those reported by the Regional Office. This distinction is attributable to the level of expertise and the "hard line" error categorization posture of the Central Office quality review staff.

From a statistical standpoint, a direct comparison of the reported Regional Office error rate and the Central Office review findings for that particular office is considered misleading.

At the Regional Office level, we review approximately 100 separate rating and authorization actions each month. Since monthly findings may vary significantly, we evaluate quality on the basis of the twelve month cumulative data in each category.

The periodic Central Office case reviews usually involve a sample of between 30 and 100 cases in each category. Just as the monthly Regional Office quality review findings are expected to vary, so are the Central Office review findings expected to vary. Statistically, a further variance in findings is possible due solely to the difference in the sample size.

In order to equate the reported error rates with the Central Office review findings, a statistical range is developed based on the Central Office sample size and the reported error range. If the error rate for the Central Office review falls within this range, the findings are considered to be consistent.

For example, our reported substantive error rate for the 1,208 rating actions reviewed between March 1, 1986 and February 28, 1987 was 1.6 percent. To validate our review findings, Central Office reviewed the rating actions in thirty-three cases. Based on our reported error rate and the Central Office sample size, the statistical range for validation was from zero to 8.47 percent. One substantive rating error was identified during the review. Our findings were considered to be consistent because the 3 percent (1/33) error rate identified on the review was within the specified range.

In view of the foregoing, it is difficult to answer whether our reported error rates are higher or lower than those identified during Central Office reviews of our cases. From a strictly numerical standpoint, our combined error rates have been higher than those found on Central Office reviews conducted since August 1, 1985. For prior periods the rates vary and the data does not support a numerical higher or lower assessment.

The following data reflects our reported error rates and the error rates identified during the Central Office review of our cases for the past five years:

	Rating Actions			Authorization Actions		
Period	Subs.	Judg.	Proc.	Subs.	Judg.	Proc.
7-1-82 to 6-30-83						
R.O. Rate	1.2	0.5	3.1	1.8	2.7	6.7
C.O. Rate	0.0	3.4	3.4	0.0	9.2	15.3
1-1-83 to 12-31-83						
R.O. Rate	1.0	0.3	2.2	1.5	2.2	5.3
C.O. Rate	0.0	0.0	2.9	1.8	1.8	2.4
1-1-84 to 12-31-84						
R.O. Rate	0.6	0.6	2.2	0.6	1.2	2.0
C.O. Rate	9.5	0.0	9.1	5.3	14.6	6.6
7-1-84 to 6-30-85						
R.O. Rate	1.1	1.8	11.5	4.3	5.4	8.0
C.O. Rate	5.9	0.0	2.9	4.2	11.1	4.2
1-1-85 to 12-31-85						
R.O. Rate	0.8	1.1	11.9	3.4	4.6	8.8
C.O. Rate	10.8	2.7	16.2	0.0	14.8	14.8
8-1-85 to 7-31-86						
R.O. Rate	1.0	1.1	12.0	5.4	6.4	12.0
C.O. Rate	0.0	0.0	3.3	3.1	3.1	6.2
3-1-86 to 2-28-87						
R.O. Rate	1.6	0.7	9.4	5.4	7.3	11.2
C.O. Rate	3.0	6.1	3.0	1.4	2.9	7.2

Question 2:

Does your Regional Office Director consider as part of your job evaluation whether the Statistical Quality Control (SQC) reviews conducted by your division are validated by Central Office? If so, for how long has this been the situation and how does a failure to validate affect your evaluation?

Response:

All of my evaluations under the Merit Pay system have equated Division performance with Agency claims processing guidelines. The failure to meet certain Agency guidelines such as failing to validate, is considered an out-of-line situation. In this regard, I am evaluated on both my ability to avoid out-of-line situations and the action taken when an out-of-line situation develops.

The overall quality of claims processing is an ongoing concern of Station management. Our Station Director conducts quarterly briefings to discuss problems and evaluate Division performance. Quality is a mandatory discussion topic. Quality findings, error levels, trends, validation and other quality concerns are discussed and/or evaluated during these briefings. In addition, our Assistant Director is the chairman of our Division Quality Control Committee. Meetings are conducted monthly to discuss quality concerns and methods for improvement.

There are a large number of factors involved in my performance evaluation. Although the failure to validate will have a negative impact upon the assessment, I cannot determine how it will affect the overall evaluation.

Question 3:

Do you routinely share copies of your Staff Analysis of Operations reports, Board of Veterans Appeals Study Reports, and quality control reports with service organization representatives?

Response:

We do not routinely share copies of our Staff Analysis of Operations or quality control reports with service organization representatives. If we identify material in either report which is of interest to claims representatives, we share such information with service officers and our Veterans Benefits Counselors.

We have not received any recent Board of Veterans Appeal Study Reports.

Question 4:

Do you file copies of SQC reports in individual cases with the affected individual's claims file for use by the claimant's representative? If not, why?

Response:

Our instructions provide for the maintenance of an independent SQC report record. There are no provisions for filing a copy of an SQC report in the claims file.

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Question 5:

Without identifying individuals, please describe the educational degrees attained by your rating board members?

Response:

We have two physicians and twelve rating specialists on our rating board. One of our rating specialists has a high school education and one has one year of college. The remaining rating board members have the following education background:

Number of Rating Board Members	Type of Degrees	Major Field of Study
2	Doctor	Medicine
2	Masters	Public Administration
1	J.D.	Law
1	Masters	History
2	Bachelors	Business, Accounting
1	Bachelors	Journalism
1	Bachelors	Sociology
1	Bachelors	Political Science
1	Bachelors	Physical Sciences

Page 7

Question 6:

If you polled all the adjudication division employees and asked them whether they felt they operated under stress due to timeliness requirements, what do you think their response would indicate? If you think time pressures are greater than are desirable, what suggestions do you have for lessening those pressures?

Response:

Production and quality requirements cause more stress among Adjudication Division employees than timeliness requirements. Most of our employees receive only a handful of cases each day which require priority handling to meet timeliness guidelines. The majority of cases are processed in chronological order as received. The production and quality requirements impact every case whereas timeliness is a factor only in a small number of readily identifiable cases.

Timeliness is a primary stressor for Adjudication Division supervisors. Supervisors must insure that subordinates meet the timeliness requirements assigned to the designated priority cases. In addition, supervisors must monitor workload and workflow to insure that overall case processing timeliness is at optimum levels. Given the number of variables that can affect overall case processing timeliness, this is probably the major supervisory stressor.

Timeliness requirements are not absolute. Factors beyond the scope of station control (legislative changes, technological advances, workload variations, etc.) can have a significant impact upon our ability to meet timeliness requirements. Station management must reasonably assess timeliness in light of all of the variables. No additional pressure is applied when timeliness is below the norm but is the best that can be expected in view of the circumstances.

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

JUL 10 1987

Honorable G. V. (Sonny) Montgomery
Chairman, Committee on
Veterans' Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed please find responses by Mr. P. K. Courtney, Adjudication Officer in St. Louis, to the questions raised by Representative Lane Evans following the May 7, 1987, hearing by the Subcommittee on Compensation, Pension and Insurance. Thank you for the opportunity to provide this additional information for the record.

Sincerely,

THOMAS K. TURNAGE
Administrator

Enclosure

STATEMENT OF P. K. COURTNEY, ADJUDICATION OFFICER, VETERANS ADMINISTRATION REGIONAL OFFICE, ST. LOUIS, MISSOURI, IN RESPONSE TO CONGRESSMAN LANE EVANS' ADDITIONAL QUESTIONS FOLLOWING THE MAY 7, 1987, HEARING BEFORE THE SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE, COMMITTEE ON VETERANS' AFFAIRS, HOUSE OF REPRESENTATIVES.

I am pleased to have the opportunity to offer further comment for the record on several issues dealing with the adjudication of veterans' benefits. This is in response to Congressman Lane Evans' questions for Adjudication Officers.

QUESTION 1

The error rate statistics attached to Mr. Vogel's testimony show that, generally, higher error rates are found during Central Office Reviews than are reported by Regional Offices. Why do you think this is the case? Does your office generally report error rates higher or lower than those found by Central Office review of your office? What error rates have been found for your office over the last 5 years by your internal reviews and by Central Office reviews?

RESPONSE

The statistical quality control program is designed to determine if quality is being maintained at an acceptable level, and to determine when action is necessary to improve quality. Formal SQC reviews are conducted at each station by fully qualified personnel, who have other assigned duties as well. One of the checks and balances on this system of review is a validation review. A ten percent sample of cases selected for review will be reviewed a second time at the local level by another reviewer to assure the legitimacy of initial reviews.

The Compensation and Pension Service has generally selected two samples of cases for review twice a year for each station. One of these is a sample taken from cases previously reviewed at the station. The other is an independent sample of completed cases. One reason why error rates differ is because a different set of cases is being looked at, thus producing a different statistical result. Another reason is that Compensation and Pension Service consultants who conduct such reviews do so as their primary job. A person who specializes in a particular kind of work should be expected to do a more complete job than another who has multiple responsibilities.

The results of quality reviews, whether in the field or in Central Office, are then compared against published standards after three standard deviation upper control limits are applied to the numeric size of the sample. This process provides a more statistically reliable set of results, whether the number of cases reviewed is twenty or 20,000 within a specified period.

Based on available statistics, in the last five years this office has identified errors in the rating SQC process at a higher rate per 100 cases than Central Office. The findings for reviews of rating and authorization actions show the following:

Period	Rating Actions		Authorization Actions	
	Subs.	Judg.	Subs.	Judg.
February '82 - February '87				
Reported RO Error Rate	0.99	1.33	1.40	2.77
CO Error Rate	0.85	1.13	2.21	5.20

The above data is based on the aggregate number of claims reviewed. While Central Office identified a greater percentage of errors in authorization actions, when comparing the reported regional office quality level with the sample size of cases reviewed by Central Office, the statistical upper control limit for validation of our findings (applying three standard deviations) shows that authorization substantive findings validated. In the last two years, local SQC findings pertaining to authorization judgment deficiencies were within the upper control limit of Central Office's findings for validation purposes.

QUESTION 2

Does your Regional Office Director consider as part of your job evaluation whether the Statistical Quality Control (SQC) reviews conducted by your division are validated by Central Office? If so, for how long has this been the situation and how does a failure to validate affect your evaluation?

RESPONSE

My present performance plan does not include specific reference to SQC results. As part of my responsibility to ensure the delivery of benefits and services to our claimants, I am judged on whether the work performed is of acceptable quality and that quality levels are maintained, show improvement or no deterioration from the previous year. SQC results and successful validation of initial findings are only two of the many areas that are looked at in assigning an overall performance rating. It is recognized that identification of errors is important, but taking corrective action whenever an error condition is present is critical.

QUESTION 3

Do you routinely share copies of your Staff Analysis of Operations reports, Board of Veterans Appeals Study Reports, and quality control reports with service organization representatives?

RESPONSE

The Director conducts monthly meetings with service organization representatives. I attend each of these meetings. Items of mutual concern are discussed. It has not been our practice to routinely share the contents of the reports mentioned, nor have there been requests from service organizations to review same.

QUESTION 4

Do you file copies of SQC reports in individual cases with the affected individual's claims file for use by the claimant's representative? If not, why?

RESPONSE

SQC reports are not filed in individual claims folders. When an error is identified, the nature of the discrepancy is documented on a form designed for the SQC program. It contains such information as veteran's name and claim number, the type of error (substantive, judgmental, procedural), a description of the deficiency, corrective action required and a citation as to the regulatory or procedural instruction that governs the action in question. The exception sheet is then signed by the reviewer and presented to the employee involved.

The employee is expected to annotate the form as to action taken to correct the error and return it to the reviewer. If the employee does not agree with the exception, the reasons supporting the employee's conclusions are set out in writing and the matter is reviewed by the Division Quality Review Committee. For this purpose, the Adjudication Officer, Assistant, and the Section Chiefs each review the case and render a final decision as to the proper claim handling. The Committee exercises authority in the process to either sustain, modify or withdraw individual quality exceptions.

The system of SQC is designed to study, through review of a statistically random sample of cases, the general quality level of the operation. It is not set up as a method for error identification, per se, but as a management tool to detect any problem in the overall program performance. As problems are detected, training of individuals (and groups if there is a trend of errors established) is conducted. Procedures are also reviewed to ensure that written guidance is adequate to prevent recurrence of specific problems. Corrective action in individual cases is only a by-product of the SQC process. In the final analysis, it matters not whether a claims folder is documented as to how an error condition was found. The important consideration is that when found, an error is corrected.

QUESTION 5

Without identifying individuals, please describe the educational degrees attained by your rating board members?

RESPONSE

The Adjudication Division in the VA Regional Office, St. Louis, MO, employs fourteen Rating Board members. Two of the members are Medical Officers and hold the M.D. degree as well as appropriate state medical licensure. The remaining twelve members, Veterans Claims Examiners, GS-996-12, have attained the following educational achievements:

6 members hold Bachelors degrees
2 members have one year of graduate study
1 member has one year of college
1 member has a Masters degree
2 members have Law degrees

QUESTION 6

If you polled all the adjudication division employees and asked them whether they felt they operated under stress due to timeliness requirements, what do you think their responses would indicate? If you think time pressures are greater than are desirable, what suggestions do you have for lessening those pressures?

RESPONSE

The mission of the Adjudication Division in the Veterans Administration is to deliver benefits and services to our veterans and their dependents. In a claims processing environment the emphasis is, and should be, quality, timely processing. In order to ensure that all employees are held accountable for the work they do in this effort, challenging but reasonable performance expectations are in effect. Employees need to know what is expected of them and how those expectations relate to the agency's overall mission. These performance standards address the areas of performance that we are most keenly interested in, and include, among other things, quality, timeliness and productivity.

Employees that are satisfactorily trained, qualified for their positions and motivated to do a good job are always going to feel a certain amount of pressure, most of which is inwardly manifest and focused. The stress of any job can be minimized through development of confidence, ongoing training, and positive feedback. In the last several years the claims process has become more automated and employees use video display terminals to control cases, send certain letters and make awards of benefits. The affects of extended VDT usage have been studied and the suggestions for minimizing stress due to this type of work should be heeded. Ergonomically correct furnishings, suitable lighting, and a safe, quiet office environment can lead to greater efficiency, and to a limited degree, employee satisfaction. We must provide them with all the "tools" necessary to do their jobs effectively.

Our employees are our greatest resource. As an agency, we must continue to demonstrate that we recognize the important role they play in achievement of our mission.

I wish to again thank the Committee for giving me the opportunity to present testimony.

Respectfully Submitted,

P. K. COURTNEY

Office of the
Administrator
of Veterans Affairs

Washington

Veterans
Administration

. JUL 10 1987

Honorable G. V. (Sonny) Montgomery
Chairman, Committee on Veterans'
Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed please find responses by Mr. Barry Weisberg, Adjudication Officer in Cleveland, to the questions raised by Mr. Lane Evans following the May 7, 1987, hearing by the Subcommittee on Compensation, Pension and Insurance. Thank you for the opportunity to provide this additional information for the record.

Sincerely,

THOMAS K. TURNAGE
Administrator

Enclosure

CONGRESSMAN LANE EVANS' QUESTIONS FOR ADJUDICATION OFFICER BARRY WEISBERG

QUESTION # 1:

The error rate statistics attached to Mr. Vogel's testimony show that, generally, higher error rates are found during Central Office Reviews than are reported by Regional Offices. Why do you think this is the case? Does your office generally report error rates higher or lower than those found by Central Office review of your office? What error rates have been found for your office over the last 5 years by your internal reviews and by Central Office reviews?

REPLY TO QUESTION #1

a. Local Statistical Quality Control (internal review) at the RO is primarily concerned with the current action under review and others closely associated with it. This is sufficient for our purposes, i.e. to know where our training needs are this year, not 10 or 20 years ago. Our 1st line supervisors conduct this review and must find time in their busy day, involving a multitude of tasks including education matters as well as C&P, for yet another task. Central Office conducts their review from the beginning of the claims process and in one area only for each separate service. Their review is conducted by persons who are specialists assigned solely to do this task during that period of time. They may also have more time to review a case than someone in a Regional Office. For all of the above reasons, I would expect Central Office to find more current errors and even more other than current errors since their review extends further into the past.

b. We report generally the same error rates in rating while our rate is lower in authorization. For the past 12 months our error rate for substantive and judgment areas has been close to 5% combined in Rating and 6% in Authorization C&P claims. In the following tables, CO's error rate was higher than ours 20 times and lower than ours 16 times.

c. 12 months cumulative to 9-30-86

Rating	Station Rate %		CO Rate %	Upper Control Limit Reported Quality Level
Substantive	2.0	All	0.0	
Judgment	2.4	areas	0.0	
Procedural	2.0	validated	5.4	8.64
Auth.				
Substantive	1.7	all	1.3	
Judgment	4.4	areas	3.9	
Procedural	3.3	validated	5.3	9.49

12 months cumulative to 3-31-86

Rating				
Substantive	1.3	all	2.8	6.6
Judgment	1.6	areas	2.8	7.54
Procedural	2.0	validated	0.0	
Auth.				
Substantive	1.6	all	1.4	
Judgment	2.9	areas	4.2	8.71
Procedural	2.3	validated	1.4	

12 months cumulative to 9-30-85

Rating

Substantive	1.6	all	0.0	
Judgment	2.7	areas	4.2	
Procedural	2.4	validated	4.2	

Auth.

Substantive	1.4	not valid.	10.8	6.97
Judgment	1.6	validated	0.0	
Procedural	2.0	validated	2.7	8.64

12 months cumulative to 7-31-84

ating	Station Rate %		CO Rate %	Upper Control Limit Reported Quality Level
Substantive	1.0	all	6.0	
Judgment	1.5	areas	2.63	7.27
Procedural	1.4	validated	5.26	6.97

Auth.

Substantive	0.6	all	1.29	3.28
Judgment	2.0	areas	1.29	
Procedural	1.7	validated	2.59	6.18

12 months cumulative to 2-28-83

Rating

Substantive	0.9	all	2.7	5.37
Judgment	0.6	areas	0.	
Procedural	1.9	validated	2.7	8.38

Auth.

Substantive	0.6	validated	0.0	
Judgment	1.6	not valid.	6.6	5.94
Procedural	1.6	validated	1.3	5.94

12 months cumulative to 12-31-81

Rating

Substantive	1.7	all	3.8	4.63
Judgment	1.6	areas	1.3	
Procedural	2.6	validated	.6	

Auth.

Substantive	1.4	all	1.5	3.89
Judgment	2.2	areas	3.0	5.31
Procedural	2.0	validated	1.5	

QUESTION #2:

Does your Regional Office Director consider as part of your job evaluation whether the Statistical Quality Control (SQC) reviews conducted by your division are validated by Central Office? If so, for how long has this been the situation and how does a failure to validate affect your evaluation?

REPLY TO QUESTION #2

Yes

In pertinent part, my performance requirement reads as follows: "Insure that the station provides appropriate benefits and/or services on a timely and acceptable basis through leadership and efficient and effective management. Quality of work produced is 80% at/above MAL. " As I interpret it, I would fall short in 80% of the 13 measured SQC areas if I fail to meet in 3 or more of the categories. This is based on our own SQC and/or the findings of CO on their validation review.

As of EOM March 1987 this RO called 5% error in the areas of substantive and judgment in rating and 6% in these areas in authorization. I usually validate in 11 or more areas, but I never get rated outstanding either. I think we are making an honest effort to make SQC meaningful for this RO. Furthermore, we are doing it within the bounds of the present management reporting system.

The attached excerpts from my self assessments for evaluation purposes, I think, show our concern with the effect a failure to validate would have on my rating.

QUESTION #3:

Do you routinely share copies of your Staff Analysis of Operations reports, Board of Veterans Appeals Study Reports, and quality control reports with service organization representatives?

REPLY TO QUESTION #3

NO These are management tools. The service officers are concerned with individual cases. They argue what they think is the correct way to adjudicate a particular issue. They are not concerned with whether or not we think we are doing cases right.

QUESTION #4:

Do you file copies of SQC reports in individual cases with the affected individual's claims file for use by the claimant's representative? If not, why?

REPLY TO QUESTION #4

Generally No.

Many exceptions are on procedural matters that do not affect the veteran at all and would serve no record purpose. If the exception results in a change in the claimant's benefits, the claimant is informed that the change was based on further review of the case. The service officer is given the opportunity to review any new ratings made because of internal reviews prior to their being promulgated just like any other rating made in a case.

QUESTION #5:

Without identifying individuals, please describe the educational degrees attained by your rating board members?

REPLY TO QUESTION #5

1 MD +
4 MD
1 Law and Bar
1 Masters +
1 Masters
2 Bachelors +
7 Bachelors
1 2 years college
3 1 year college
1 High School

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QUESTION #6:

If you polled all the adjudication division employees and asked them whether they felt they operated under stress due to timeliness requirements, what do you think their responses would indicate? If you think time pressures are greater than are desirable, what suggestions do you have for lessening those pressures?

REPLY TO QUESTION #6

a. yes
b. no

In this office I keep the direct pressure of overall processing timeliness off the persons who decide the case. They are told to work the case within a reasonable time of receipt. The pressure is reserved for our supervisors who all do pending issue review. If they discover a case that should now be worked special due to abnormal lapse of time, since date of claim, they ask the direct labor person to work it ASAP.

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